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GOVERNMENT OF INDIA
MINISTRY OF LAW

THE UNREPEALED CENTRAL ACTS

WITH
CHRONOLOGICAL TABLE AND INDEX

VOLUME VII

From 1917 to 1923, both inclusive

(SECOND EDITION)

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PREFACE.

This Volume has been prepared on the same lines as the previous edition published by the Reforms Office in 1939. The Acts included in this Volume have been printed as modified up to the ~~1st July 194~~8.

K. V. K. SUNDARAM, I.C.S.,
Secretary, Minitry of Law,
Government of India.

NEW DELHI,
The 1st November, 1950.

Checked
1987

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1917-1923.

1 Year.	2 No.	3 Short title or Subject.	4 Page.	
1920	XXXIII	The Identification of Prisoners Act, 1920 .	128	
	XXXIV	The Indian Passport Act, 1920 . . .	131	
	XXXV	The Basel Mission Trading Company Act, 1920.	133	
	XXXIX	~~The Indian Elections Offences~~ and ~~Inquiries Act, 1920.~~	136	Repealed by XLIII/51
	XL	The Aligarh Muslim University Act, 1920 .	140	
	XLVII	The Imperial Bank of India Act, 1920 . .	170	
	XLVIII	~~The Indian Territorial Force Act, 1920~~ . .	207	Repealed by LVI/48
	XLIX	The Auxiliary Force Act, 1920 . . .	215	
1921	II	~~The Legislative Assembly (Deputy President's Salary) Act, 1921.~~	230	Repealed by A. O. 1950
	VIII	The Hindu Transfers and Bequests (City of Madras) Act, 1921.	230	
	IX	The Enemy Missions Act, 1921 . . .	231	
	XVII	The Cattle-trespass (Amendment) Act, 1921 .	236	
	XVIII	The Maintenance Orders Enforcement Act, 1921	237	
1922	VII	The Indian Emigration Act, 1922 . . .	241	
	VIII	The Delhi University Act, 1922 . . .	254	
	IX	The Civil Procedure (Amendment) Act, 1922.	295	
	XI	The Indian Income-tax Act, 1922 . . .	296	
	XIII	The Ranchi Mental Hospital Act, 1922 . .	408	
	XXII	The Police (Incitement to Disaffection) Act, 1922.	416	
		The Indian States (Protection against Disaffection) Act, 1922.*	418	
1923	III	The Cotton Transport Act, 1923 . . .	419	
	IV	~~The Indian Mines Act, 1923~~	423	Repealed by XXXV/52
	V	The Indian Boilers Act, 1923	450	
	VI	The Cantonments (House-Accommodation) Act, 1923.	463	
	VII	The Indian Naval Armament Act, 1923 . .	476	

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* Act made by the Governor General under s. 67B of the Government of India Act.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1917-1923—*concld.*

1 Year	2 No.	3 Short title or Subject.	4 Page.
1923	VIII	The Workmen's Compensation Act, 1923 .	481
	XIV	The Indian Cotton Cess Act, 1923 . . .	513
	XIX	The Indian Official Secrets Act, 1923 . .	522
	XXI	The Indian Merchant Shipping Act, 1923 .	533
	XXII	The Malkharoda and Gaontia Villages Laws Act, 1923.	687
	XXIII	The Legal Practitioners (Women) Act, 1923 .	690
	XXIV	The Mahendra Partab Singh Estates Act, 1923	691
	XXV	The Moorshedabad (Amendment) Act, 1923 .	704
	XLII	The Mussalman Wakf Act, 1923	704

Repealed by (Sec. 12
by LIX/48

SECTIONS.
16. Power for Provincial Government to direct survey by two surveyors.
17. Power for Provincial Government to order a second survey.
18. Division of duties when two surveyors employed.
19. Power for Provincial Government to make rules as to surveys.

CHAPTER III.

MASTERS (INCLUDING SERANGS) AND ENGINEERS (INCLUDING ENGINE-DRIVERS) OF INLAND STEAM-VESSELS.

20. Appointment of examiners.
21. Grant of masters', serangs', engineers' and engine-drivers' certificates of competency.
22. Grant of masters', serangs', engineers' and engine-drivers' certificates of service.
22A. Licences.
23. Certificates to be made in duplicate.
24. Copy of certificate or licence to be granted in certain cases.
25. Certificates to be held by master and engineer of vessel of one hundred or more horse-power.
26. Certificates to be held by master and engineer of vessel of between forty and one hundred horse-power.
27. Certificates to be held by master and engineer of vessel of less than forty horse-power.
28. Power for Provincial Government to require master or engineer to hold certificate granted under Act in addition to other certificate.
29. Power for Provincial Government to make rules as to grant of certificates of competency.
30. Power for Provincial Government to make rules as to grant of certificates of service.
30A. Power for Provincial Government to make rules as to grant of licences.
31. Area in which certificates of competency or service and licences shall have effect.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

32. Report of casualties to be made to nearest police-station.
33. Power for Provincial Government to appoint Court of Investigation.
34. Power of Court of Investigation to inquire into charges of incompetency or misconduct.

SECTIONS.
35. Power for Provincial Government to direct investigation otherwise than under section 33.
36. Person charged to be heard.
37. Assessors.
38. Powers of Court as to evidence and regulation of proceedings.
39. Power of Court to effect arrest of witnesses by entry and detention of vessels.
40. Power of Court to commit for trial and to bind over witnesses.
41. Depositions of absent witnesses.
42. Report by Court to Provincial Government.
43. Court to exercise its powers independently of the assessors.
44. Power for Provincial Government to direct investigations into causes of explosions on steam-vessels.

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT.

45. Power for Provincial Government to suspend or cancel certificates in certain cases.
46. Obligation to deliver up suspended or cancelled certificate.
47. Report to other Provincial Government.
48. Power for Provincial Government to revoke suspension or cancellation and to grant new certificate.

CHAPTER VI.

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN, INLAND STEAM-VESSELS.

49. Power for Provincial Government to declare dangerous goods.
50. Carriage of dangerous goods.
51. Power of owner or master of steam-vessel to throw overboard dangerous goods.
52. Power for Provincial Government to make rules for protection of inland steam-vessels from accidents.
53. Power for Provincial Government to make rules as to carriage of passengers in inland steam-vessels.
54. Power for Provincial Government to make rules for protection of passengers.
54A. Power of Provincial Government to fix maximum and minimum rates for passenger fares and freight for goods.
54B. Power to make rules providing for the appointment of Advisory Committees.

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

SECTIONS.

55. Penalty for making voyage without certificate of survey.
56. Penalty for neglect to affix certificate of survey in inland steam-vessel.
57. Penalty for neglect or refusal to deliver up certificate of survey.
58. Penalty for carrying excessive number of passengers on board.
59. Penalty for serving, or engaging a person to serve, as master or engineer without certificate.
60. Penalty for master failing to give notice of wreck or casualty.
61. Penalty for failing to deliver up suspended or cancelled certificate.
62. Penalty for taking or delivering or tendering for carriage dangerous goods on board inland steam-vessel without notice.
63. Penalty for misconduct or neglect endangering inland steam-vessel or life or limb.
64. Levy of fine by distress of inland steam-vessel.
65. Jurisdiction of Magistrates.
66. Place of trial.

CHAPTER VIII.

SUPPLEMENTAL.

67. Power for Provincial Government to make general rules.
68. Power for Provincial Government to modify application of Act to certain inland steam-vessels.
69. Exemption of His Majesty's and Government vessels.
70. Power for Provincial Government to define tidal-water.
71. Fees recoverable as fines.
72. Certificated masters of inland steam-vessels to be deemed pilots under section 31 of Act XV of 1908.
73. Application of Act to vessels propelled by electricity or other mechanical power.
74. Publication of rules.
75. [*Repealed.*]

SCHEDULE I.—RATES OF FEES.

SCHEDULE II.—[*Repealed.*]

ACT NO. I OF 1917.[1]

[*7th February, 1917.*]

An Act to consolidate the enactments relating to Inland Steam-vessels.

WHEREAS it is expedient to consolidate the enactments relating to inland steam-vessels ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Inland Steam-vessels Act, 1917.

(2) It ~~extends,~~ in the first instance, to [2][all the ~~Provinces of India~~],

(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not come into force in the States of Travancore-Cochin Andhra and Madras or in that part of the State of Orissa which on the 31st day of March 1936, was included in the State of Madras, unless the State Government concerned, by notification in the Official Gazette, so directs.

XXVI/51.

~~in such notification.~~

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " inland steam-vessel " means a steam-vessel which ordinarily plies on any inland water ;

[9](*2*) " inland water " means any canal, river, lake or other navigable water ~~in [10][the Provinces]~~;

(*3*) " passenger " includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants ;

(*4*) " prescribed " means prescribed by any rule under this Act ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1916, Pt. V, p. 71; and for Proceedings in Council, *see ibid.*, 1916, Pt. VI, p. 541, and *ibid.*, 1917, Pt. VI, p. 17. This Act has been amended in Bengal by Ben. Act 7 of 1940.

[2] Subs. by the A. O. 1948 for " the whole of British India ".

[3] 1st June, 1917, *see* notification No. 6256-S., dated 1st June, 1917, Gen. R. & O., Vol. IV, p. 516; Gazette of India, 1917, Pt. I, p. 988.

[4] Subs. by the A. O. 1937 for " G. G. in C."

[5] Subs. by the A. O. 1937 for " Gazette of India ".

[6] Subs. by the A. O. 1937 for " Governor of Fort St. George in Council".

[7] Subs. by the A. O. 1937 for " Fort St. George Gazette ".

[8] Subs. by the A. O. 1937 for " under his administration ".

[9] For power to define how much of any tidal water shall be deemed to be an " inland water ", *see* s. 70, *infra*.

[10] Subs. by the A. O. 1948 for " British India ".

(*5*) "Steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam;

(*6*) "survey" means the survey of a steam-vessel under this Act;

(*7*) "surveyor" means a surveyor appointed under this Act; and

(*8*) "voyage" includes the plying of a steam-vessel at or about any place.

CHAPTER II.[1]

SURVEY OF INLAND STEAM-VESSELS.

Inland steam-vessel not to proceed on voyage or to be used for service without certificate of survey.

3. (*1*) An inland steam-vessel shall not proceed on any voyage, or be used for any service unless she has a certificate of survey in force and applicable to such voyage or service.

(*2*) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate of survey expires and the time at which it is first practicable to have the certificate renewed.

Appointment of surveyors and places of survey.

4. (*1*) The [2][~~Provincial~~ state Government] may, by notification in the [3][Official Gazette],—

(*a*) declare such places, within the territories under its administration, as it thinks fit, to be places of survey, and

(*b*) appoint so many persons to be surveyors at the said places as it thinks fit, for the purposes of this Act.

(*2*) Every surveyor shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Powers of surveyors.

5. (*1*) For the purposes of a survey, the surveyor may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, including the hull, boilers, engines and other machinery, and all equipments and articles on board:

Provided that he shall not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery or any part thereof, and all equipments and articles on board, as he may require for the purposes of a survey.

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[1] For power to exempt any class of vessels from the provisions of Ch. II or to modify that Ch., *see* s. 68, *infra*.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "local official Gazette".

Fees in respect of surveys.

6. Before a survey is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], appoint in this behalf—

(*a*) a fee calculated on the tonnage of the steam-vessel according to the rates mentioned in Schedule I, or according to any other prescribed rates ; and

(*b*) when the survey is to be made in any place of survey other than Calcutta, Madras [3][or Bombay], such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the [1][~~Provincial~~ State Government] may by such notification direct.

Declaration of surveyor.

7. When the survey of a steam-vessel is completed, if the surveyor making it is satisfied that—

(*a*) the hull, boilers, engines and other machinery of the steam-vessel are sufficient for the voyage or service intended and in good condition, and

(*b*) the equipments of the steam-vessel and the certificates of the master and engineer are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel,

the surveyor shall forthwith give to the owner or master a declaration in the prescribed form containing the particulars mentioned in clauses (*a*) and (*b*), and the following further particulars, namely:—

(*i*) the time (if less than one year) for which the hull, boilers, engines and other machinery and equipments of the steam-vessel will be sufficient ;

(*ii*) the limit (if any) beyond which, as regards the hull, boilers, engines and other machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply ;

(*iii*) the number of passengers (if any) which the steam-vessel is, in the judgment of the surveyor, fit to carry, specifying, if necessary, the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins: the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "local official Gazette".
[3] Subs. by the A. O. 1937 for "Bombay or Rangoon".

(*iv*) any other prescribed particulars.

Sending of declaration by owner or master to Provincial Government.

8. (*1*) The owner or master of a steam-vessel to whom a declaration is given under section 7 shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], appoint in this behalf.

(*2*) If any owner or master fails to send a declaration as required by sub-section (*1*), he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

Power for Provincial Government to grant or authorise the grant of certificates of survey.

9. (*1*) The [1][~~Provincial~~ State Government] shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration sent under section 8, cause,—

(*a*) a certificate of survey, in duplicate, to be prepared, and

(*b*) notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

(*2*) On application made by the owner or master to such officer at the place of survey as the [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], appoint in this behalf, and on payment to such officer by the owner or master of the sum (if any) forfeited by him under section 8, sub-section (*2*), (the actual amount of which within the limit thereby fixed shall be determined by the [1][~~Provincial~~ State Government]), the certificate, in duplicate, so prepared shall be granted to the owner or master by the [1][~~Provincial~~ State Government] and issued to him through such officer.

(*3*) A certificate granted under this section shall be in the prescribed form, shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the steam-vessel and the declaration of survey have been complied with, and shall set forth—

(*a*) the particulars concerning the steam-vessel mentioned in the declaration of survey as required by clauses (*i*), (*ii*) and (*iii*) of section 7, and

(*b*) any other prescribed particulars.

(*4*) The [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], delegate to any person all or any of the functions assigned to the [1][~~Provincial~~ State Government] under this section:

Provided that no delegation shall be made under sub-section (*2*) so as to authorise the grant of a certificate of survey by the surveyor who made the declaration of survey under section 7.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

Certificate of survey to be affixed in conspicuous part of steam-vessel.

10. The owner or master of every steam-vessel for which a certificate of survey has been granted, shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board.

Effect of certificates of survey.

[1][**10A.** A certificate of survey shall have effect throughout the Province in which it was granted:

Provided that such a certificate may be endorsed by the ~~Provincial~~ State Government of any other ~~Province,~~ State or with the general or special sanction of the ~~Provincial~~ State Government of that other ~~Province~~ State, by the authority granting it, so as to have effect in that other Province or any part thereof, and, if so endorsed shall have effect accordingly.]

Term of certificates of survey.

11. A certificate of survey shall not be in force [1][in any ~~Province~~ State]—

(*a*) after the expiration of one year from the date thereof ; or

(*b*) after the expiration of the period (if less than one year) for which the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel to which the certificate relates have been stated in the certificate to be sufficient ; or

(*c*) after notice has been given [2][by the ~~Provincial~~ State Government of the ~~Province~~ State in which it was granted] to the owner or master of such steam-vessel, that such [3][~~Provincial~~ State Government] has cancelled or suspended it.

[1][A certificate of survey shall not be in force in any Province State by virtue of any endorsement in respect of that ~~Province~~ State, after notice has been given by the ~~Provincial~~ State Government of that ~~Province~~ State, to the owner or master of a steam-vessel, that that Government has cancelled or suspended the endorsement.]

Renewal of certificates of survey.

12. After a certificate of survey has ceased to be in force the same shall only be renewed after a fresh survey of the steam-vessel to which the certificate relates, has been held in accordance with the provisions of this Chapter save so far as any relaxation thereof may be prescribed.

Power for Provincial Government to suspend or cancel certificate of survey.

13. [4][A certificate of survey or any endorsement thereon made under section 10A may be suspended or cancelled by the Government of the Province in which the certificate was granted or in respect of which the endorsement was made, as the case may be, if that Government has reason to believe]—

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[1] Ins. by the A. O. 1937.
[2] Subs. by the A. O. 1937 for "by any L. G.".
[3] Subs. by the A. O. 1937 for "L. G.".
[4] Subs. by the A. O. 1937 for "A certificate of survey may be suspended or cancelled by any L. G. if it has reason to believe—".

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or other machinery or, of any of the equipments of the steam-vessel has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that since the making of the declaration the hull, boilers, engines or other machinery, or any of the equipments of the steam-vessel have sustained any material injury, or have otherwise become insufficient.

Power for Provincial Government to require delivery of expired or cancelled certificate.

14. The [1][~~Provincial~~ State Government] may require any certificate of survey, which has expired or has been suspended or cancelled, to be delivered up to such officer as the [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], appoint in this behalf.

[3][Where an endorsement on any certificate of survey for any ~~Province~~ State has been suspended or cancelled, the ~~Provincial~~ State Government of that ~~Province~~ State may require the certificate of survey to be delivered up to such officer as that Government may by notification in the Official Gazette appoint in this behalf, in order that particulars of the suspension or cancellation of the endorsement may be noted on the certificate.]

Report of suspension or cancellation of certain certificates.

15. [4][If a ~~Provincial~~ State Government suspends or cancels an endorsement made under section 10A on a certificate of survey, it] shall report the fact of suspension or cancellation, together with the reasons therefor, to the [1][~~Provincial~~ State Government] which (or whose delegate) granted the certificate.

Power for Provincial Government to direct survey by two surveyors.

16. A survey shall ordinarily be made by one surveyor, but two surveyors may be employed if the [1][~~Provincial~~ State Government], by order in writing, so directs either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Power for Provincial Government to order a second survey.

17. (*1*) If the surveyor making a survey of a steam-vessel refuses to give a declaration under section 7 with regard to the steam-vessel, or gives a declaration with which the owner or master of the steam-vessel is dissatisfied, the [1][~~Provincial~~ State Government] may on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee payable for the previous survey,

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

[3] Ins. by the A. O. 1937.

[4] Subs. by the A. O. 1937 for "If the L. G. which suspends or cancels a certificate of survey, is not the L. G. which (or whose delegate) granted the certificate, the L. G. suspending or cancelling the certificate".

3. Insertion of new Chapter IIA in Act I of 1917.- In the principal Act, after Chapter II, the following shall be inserted, namely:-

"CHAPTER IIA.

19A. Inland steam-vessels not to proceed on voyage or be used for service without certificate of registration.- (1) An inland steam-vessel shall not proceed on any voyage or be used for any service, unless it has a certificate of registration in force in respect thereof and granted under this Act.

(2) Nothing in this section shall —

(a) apply to any steam-vessel built at any place other than a place of registry and making her first voyage to any such place for the purpose of registration; or

(b) be in derogation of the provisions contained in section 3.

19B. Place of registry and registering authorities.— (1) The State Government may, by notification in the Official Gazette,—

(a) declare such places within the territories under its administration as it thinks fit to be places of registry; and

(b) appoint registering authorities at the said places for the purposes of this Act.

(2) Every person appointed as a registering authority shall, for the purposes of any registration made by him, be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

19C. Book of registration .— At every place of registry, a book shall be kept by the registering authority in which all the particulars contained in the form of the certificate of registration shall be duly entered and such registering authority shall, immediately after registering any inland steam-vessel or within one month at the furthest, send to the State Government a true and exact copy, together with the number, of every certificate which shall be so granted by it.

19D. Application for registration.—An application for registration of an inland steam-vessel shall be made by the owner or master of the vessel in such form and shall contain such particulars as may be prescribed and shall be accompanied by a copy of the certificate of survey in force issued in respect of the vessel.

19E. Places of registration. (1) Every application for registration shall be made to a registering authority within the local limits of whose jurisdiction the owner of the inland steam-vessel ordinarily resides or carries on business.

(2) Where the owner applying for a certificate of registration is a company registered under the Indian Companies Act, 1913 (VII of 1913), the application may be made to a registering authority within the local limits of whose jurisdiction the principal office of the company is situate.

(3) Notwithstanding anything contained in this section, an inland steam-vessel may be registered by a registering authority in any State, although the owner does not ordinarily reside or carry on business in that State or, if a company, the principal place of business of the company is not situate in that State:

Provided that the Government of the State in which the owner ordinarily resides or carries on business, or in the case of a company the Government of the State, where the principal place of business of the company is situate, has accorded its previous approval thereto.

19F. Grant of certificate of registration.—(1) If, in espect of any inland steam-vessel, the registering authority fter making such inquiry as it thinks fit, is satisfied that he provisions of this Act or of any rules made thereunder have een complied with, it shall grant to the applicant therefor certificate of registration comprising such particulars as ay be prescribed on payment of the prescribed fee.

(2)A A registering authority may refuse to register an inand steam-vessel, if she is found to be mechanically defective, r if the applicant fails to furnish satisfactory evidence in upport of any of the statements made in his application:

Provided that where the registering authority refuses to egister any inland steam-vessel, it shall furnish to the appliant a statement in writing containing the reasons for such reusal.

19G. Automatic registration of inxland steam-vessels egistered under the Merchant Shipping Acts.— Where an appliation is made under this Act for the registration of an inland team-vessel registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c.60), as amended by any subsequent enactment, he registering authority shall, on receipt of such application d any fee that may be prescribed, and on being furnished with atisfactory proof of the fact of such registration, grant to e applicant a certificate of registration under this Act.

19H. Marking of inland steam-vessels.— Where an inland team-vessel has been registered under this Chapter, the regisering authority shall assign to the vessel, to be displayed hereon conspicuously in the prescribed monner, a distinguishng mark, hereinafter in this Act referred to as the registration ark.

19I. Prohibition against transfer of certificate of egistration.—(1) A certificate of registration granted in resect of inland steam-vessel shall be used only for the lawful avigation of that vessel.

(2) A certificate of registration in respect of an nland steam-vessel issued by a registering authority in one tate will be valid for that State only, but where any such essel is in inland waters of more than one State, nothing in his section shall be deemed to require the owner or master of e vessel to obtain a fresh certificate of registration in elation to the State or States in which the vessel is not so egistered:

Provided that the owner of the vessel has not ceased to eside or carry on business in the State in which the vessel as originally registered.

19J. Registration of alterations.— (1) When an inland team-vessel is so altered as not to correspond with the partiulars relating to her or x the description entered in the ertificate of registration, then the owner of the vessel shall, ithin such period as may be prescribed, make a report xxxx of uch alteration to the registering authority of the place here the vessel is registered.

(2) The report under sub-section (1) shall be made in such form and shall contain such particulars with respect to the alteration as may be prescribed and shall be accompanied by the certificate of registration in force in respect of the vessel at the time of the report.

(3) The registering authority, on receipt of the report under sub-section (1) and on payment of the prescribed fee, shall either cause the alteration to be registered or direct that the vessel be registered anew:

Provided that where the registering authority directs that the vessel be registered anew, it shall either grant a provisional certificate describing the vessel as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(4) Any provisional certificate granted or endorsement made under the provisions of this section shall be valid for a period of one month from the date thereof, within which period the owner shall cause all necessary steps to be taken to have the vessel registered anew.

19K. Transfer of registry.—(1) The registry of an inland steam-vessel may be transferred from one place in a State to another place in another State on the application by the owner or master of the vessel to the registering authority of the place where the vessel is registered.

(2) On receipt of such application, the registering authority shall transmit notice thereof to the registering authority of the intended place of registry with a copy of all particulars relating to the vessel.

(3) The certificate of registration, in respect of the vessel shall be delivered up to the registering authority either of the existing or intended place of registry, and, if delivered up to the former, shall transmitted to the registering authority of the intended place of registry.

(4) On receipt of the documents, referred to in sub-sections (2) and (3) and the prescribed fee, if any, the registering authority of the intended place of registry shall enter in its register book all the particulars so transmitted as aforesaid and grant a fresh certificate of registration in respect of the vessel and thenceforth such vessel shall be considered as registered at the new place of registry.

19L. Change of residence or place of business.—(1) If the owner of an inland steam-vessel ceases to reside or carry on business at the address recorded in the certificate of registration of the vessel, he shall, within thirty days of the change of address, intimate his new address to the registering authority by which the certificate of registration was granted, or, if the new address is within the jurisdiction of another registering authority, to that registering authority, and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered thereon.

(2) Where a registering authority other than the original registering authority makes any such entry, it shall communicate the new address to the original registering authority.

19M. Prohibition against transfer of ownership of registered vessel.—(1) An inland steam-vessel registered under this Act in one State shall not be transferred to a person resident in another State in India or in any country outside India, without the previous approval of the Government of the State in which the vessel is registered:

Provided that where an inland steam-vessel is also registered under the Merchant Shipping Act, 1894 (57 and 58) Vict., c. 60), as amended by any subsequent enactment, this sub-section shall have effect as if for the words "the Government of the State in which the vessel is registered," the words "the Central Government" had been substituted.

(2) Subject to the provisions of sub-section (1), the owner of an inland steam-vessel registered under this Act and the transfere thereof shall, within thirty days of the transfer of ownership of the said vessel to the transfere, jointly make a report of the transfer to the registering authority within the local limits of whose jurisdiction the transferee resides or carries on business and shall also forward the certificate of registration to that registering authority, together with the prescribed fee, in order that particulars of the transfer of ownership may be entered thereon.

19N. Suspension of certificates of registration.- (1) A registering authority may suspend, for such period and subject to such conditions as it thinks fit, the certificate of registration of an inland steam-vessel, if it has reason to believe that after the granting of the certificate the vessel has become unfit to ply in inland waters.

(2) Where the registration of an inland steam-vessel is suspended under sub-section (1) for a period of not less than one month, the registering authority ordering the suspension shall, if it is not the original regising authority, inform that other authority of the fact of such suspension.

(3) The registering authority suspending the certificate may require the owner or master of the vessel to deliver up the certificate so suspended to itself or, if it is not the original registering authority, to that other authority.

(4) A certificate of registration surrendered under this section shall be returned to the owner when the order suspending the certificate has been rescinded or has ceased to operate.

190. Cancellation of registration.- (1) If, an inl steam-vessel has been destroyed or has been rendered pe manentlyunfit for service, the owner of the vessel shal with the least practicable delay, report the fact to the registering authority of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon the registering authority shall have the certificate of registration cancelled.

(2) Any registering authority may at any time require that any inland steam-vessel within the local limits of its jurisdiction may be inspected by such authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, the registering authority is satisfied that the vessel is in such a condition that it is not fit to ply in any ~~inaid~~ inland water, the registering authority may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to the registering authority, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

19p. Appeals. (1) Any person aggrieved by an order--

(a) refusing to register any inland steam-vessel under section 19F; or

(b) suspending a certificate of registration under section 19N; or

(c) cancelling a certificate of registration under sub-section (2) of section 19o.

may, within thirty days of the date on which he received notice of such order, appeal against it to the state government.

(2) The State Government shall cause notice of every such appeal to be given to the registering authority concerned in such manner as may be prescribed, and after giving an opportunity to that authority and to the appellant to be heard shall pass such order thereon as it thinks fit.

19Q. Reciprocity.--Where the Central Government is satisfied that by the law or practice of any country outside India, inland steam-vessels having a certificate of registration in force under this Act--

(a) obtain by reason of such registration any special exemption in that country while plying in the inland waters thereof, or

(b) are required as a condition of plying in the inland waters of that country to comply with any special requirement, whether by way of registration anew or payment of fee or otherwise,

the Central Government may, by notification in the Official Gazette, for the purpose of reciprocity, direct that the same exemption or requirement, or an exemption or a requirement as similar thereto as may be, be granted to, or imposed upon, inland steam-vessels registered in that country while plying in the inland waters of the territories to which this Act extends.

19R. Power to make rules.--(1) ~~That~~ The State Government may make rules to carry out the objects of this Chapter.

(2) In particular, and without prejudice t rality of the foregoing power, such rules may-

(a) prescribe the powers, duties and functions of registering authorities and the local limits of their jurisdiction;

(b) prescribe the form of, and the particulars to contained in, applications for, and certificates of, registration.

(c) provide for the form and manner~~k~~ in which book of registration shall be maintained under this Chapter;

(d) provide for the issue of duplicate certificate of registration to replace certificates lost, destroyed or mutilated;

(e) prescribe, subject to the approval of the Central Government, the fees to be charged for the registration of inland steam-vessels or for any other action to be taken by the registering authority under this Chapter, and provide for the exemption of any person or clas of persons from payment of the whole or any part of any such fees;

(f) prescribe the period within which, and the manner in which, the owner of an inland steam-vessel shall make a report of any alteration in the vessel under section 19J;

(g) prescribe the manner in which appeals to the State Government may be preferred under this Chapter and the fees payable in respect of any such appeal;

(h) provide for any other matter which is to be or may be prescribed under this Chapter."

as the [1][~~Provincial~~ State Government] may require, direct two other surveyors to survey the steam-vessel.

(*2*) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as, under the circumstances. seems to them proper.

(*3*) Any declaration given, or any refusal to give a declaration under sub-section (*2*), shall be final.

Division of duties when two surveyors employed.

18. When a survey is made by two surveyors under either section 16 or section 17, each of the surveyors shall perform the prescribed portion of the duties assigned to a surveyor under this Act or the rules made thereunder.

Power for Provincial Government to make rules as to surveys.

19. (*1*) The [1][~~Provincial~~ State Government] may [2]* * * * make rules to regulate the making of surveys.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the times and places at which, and the manner in which, surveys are to be made;

(*b*) the duties of the surveyor making a survey and, where two surveyors are employed, the respective duties of each such surveyor;

(*c*) the form in which declarations of survey and certificates of survey are to be framed, and the nature of the particulars to be stated therein under sections 7 and 9;

(*d*) the rates other than those mentioned in Schedule I according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places of survey within the territories under its administration ; and

(*e*) the cases in, and the extent to, which a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS (INCLUDING SERANGS) AND ENGINEERS (INCLUDING ENGINE-DRIVERS) OF INLAND STEAM-VESSELS.

Appointment of examiners.

20. The [1][~~Provincial~~ State Government] may appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates (hereinafter called certificates of competency), to the effect that they are competent to act as masters or serangs, or as engineers or engine-drivers, as the case may be, on board inland steam-vessels.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] The words "with the previous sanction of the G. G. in C." were rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

Grant of masters', serangs', engineers' and engine-drivers' certificates of competency.

21. (*1*) The [1][~~Provincial~~ State Government] or such officer as it may, by notification in the [2][Official Gazette], appoint in this behalf, shall grant to every person who is reported by the examiners to possess the prescribed qualifications, a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel:

Provided nevertheless that, before granting a certificate of competency under this Act, the authority empowered to grant such certificate may, if it considers the report of the examiners regarding any applicant for such certificate to be defective, or has reason to believe that such report has been unduly made, require a further examination or a re-examination of the applicant.

(*2*) Every certificate granted under this section shall be in the prescribed form.

Grant of masters', serangs', engineers' and engine-drivers' certificates of service.

22. (*1*) The [1][~~Provincial~~ State Government] may, [3][if it thinks fit], grant without examination to any person who has served as a master or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland steam-vessel.

(*2*) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

Licences.

[4][**22A.** (*1*) The [1][~~Provincial~~ State Government] may also, [3][if it thinks fit], grant—

(*a*) to a person who is in possession of a second-class master's certificate granted under section 21 or section 22, and has, by virtue of such certificate, acted as master of an inland steam-vessel having engines of forty or more nominal horse-power for a period of not less than five years, or

(*b*) to a person who is in possession of a first-class engine-driver's certificate granted under section 21 or section 22, or an engine-driver's certificate granted under the Indian Steam-

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "local official Gazette".
[3] Subs. by the A. O. 1937 for "in its discretion".
[4] Ins. by the Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920), s. 2.

VII of 1884.

ships Act, 1884, and has, by virtue of such certificate, served as an engine-driver of an inland steam-vessel having engines of not less than seventy nominal horse-power for five years, for not less than two and a half years of which period he has been the engine-driver of such vessel within the meaning of section 26,

a licence authorising such person to act as master or engineer, as the case may be, of any inland steam-vessel having engines of one hundred and seventy nominal horse-power or of such less nominal horse-power [1][as such Government] may deem fit.

(*2*) Any such licence shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's certificate, as the case may be, of the nature referred to in sub-section (*1*):

Provided that the [2][~~Provincial~~ State Government] may, [3][if it thinks fit], suspend, cancel or vary the conditions of any such licence.]

Certificates to be made in duplicate.

23. Every certificate of competency or service [4][and every licence] granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, [4][or licence] and the other shall be kept and recorded in the prescribed manner.

Copy of certificate or licence to be granted in certain cases.

24. Whenever a master or serang, or an engineer or engine-driver, proves, to the satisfaction of the authority which granted his certificate [5][or licence] that he has, without fault on his part, lost or been deprived of it, a copy of the certificate [5][or licence] to which, according to the record kept under section 23, he appears to be entitled shall be granted to him, and shall have the same effect as the original.

Certificates to be held by master and engineer of vessel of one hundred or more horse-power.

25. An inland steam-vessel having engines of [6][one hundred] or more nominal horse-power shall not proceed on any voyage unless she has—

I of 1859.

57 & 58 Vict., c. 60.

(*a*) as her master a person possessing a first-class master's certificate granted under this Act, or a master's certificate granted under the Indian Merchant Shipping Act, 1859, or granted under, or continued in force by, the [7]Merchant Shipping Act, 1894, [8][or a master's licence granted under section 22A and applicable to such vessel and voyage], and

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[1] Subs. by the Repealing and Amending Act, 1923 (11 of 1923), s. 2 and Sch. I, for "as to such Govt."

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "in its discretion".

[4] Ins. by the Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920), s. 3.

[5] Ins. by s. 4, *ibid.*

[6] Subs. by s. 5, *ibid.*, for "eighty".

[7] Coll. Stat., Vol. II.

[8] Ins. by Act 6 of 1920, s. 5.

(*b*) as her engineer a person possessing an engineer's certificate granted under this Act, or the Indian Steamships Act, 1884, or granted under or continued in force by the [1]Merchant Shipping Act, 1894, [2][or an engine-driver's licence granted under section 22A and applicable to such vessel and voyage.] VII of 1884. 57 & 58 Vict., c. 60.

Certificates to be held by master and engineer of vessel of between forty and one hundred horse-power.

26. An inland steam-vessel having engines of [3][forty] or more nominal horse-power, but of less than [4][one hundred] nominal horse-power, shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a second-class master's certificate granted under this Act, or any certificate referred to in clause (*a*) of section 25, and

(*b*) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act, or an engine-driver's certificate granted under the Indian Steamships Act, 1884, or any certificate referred to in clause (*b*) of section 25: VII of 1884.

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (*a*), and a certificate referred to in clause (*b*) of this section.

Certificates to be held by master and engineer of vessel of less than forty horse-power.

27. An inland steam-vessel having engines of less than [5][forty] nominal horse-power shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a serang's certificate granted under this Act, or any certificate referred to in clause (*a*) of section 26, and

(*b*) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act, or any certificate referred to in clause (*b*) of section 26:

Provided that a steam-vessel shall be deemed to have complied with this section if she has as her master and engineer a person possessing both a certificate referred to in clause (*a*), and a certificate referred to in clause (*b*) of this section.

Power for Provincial Government to require master or engineer to hold certificate granted

28. Notwithstanding anything in this Chapter, the [6][~~Provincial~~ State Government] may, by general or special order, direct that a person possessing—

(*a*) a master's certificate granted under the Indian Merchant Shipping Act, 1859, or granted under, or continued in force by, the [1]Merchant Shipping Act, 1894, or I of 1859. 57 & 58 Vict., c. 60.

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[1] Coll. Stat., Vol. II.
[2] Ins. by the Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920), s. 5.
[3] Subs. by s. 6, *ibid.*, for "thirty".
[4] Subs. by s. 6, *ibid.*, for "eighty".
[5] Subs. by s. 7, *ibid.*, for "thirty".
[6] Subs. by the A. O. 1937 for "L. G.".

(*b*) an engineer's or engine-driver's certificate granted under the Indian Steamships Act, 1884, or an engineer's certificate granted under, or continued in force by, the [1]Merchant Shipping Act, 1894,

VII of 1884.

57 & 58 Vict., c. 60.

under Act in addition to other certificate.

shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses—

(*i*) in case (*a*), such a master's or serang's certificate granted under this Act as qualifies him under this Chapter to act as master of the steam-vessel, or

(*ii*) in case (*b*), such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this Chapter to act as engineer of the steam-vessel:

Provided that, for the purposes of this section, the [2][~~Provincial~~ State Government] may, [3][if it thinks fit], grant to any person, without examination, a master's or serang's or an engineer's or engine-driver's certificate of competency under this Act, and such certificate shall have the same effect as a certificate of competency granted under this Act after examination.

Power for Provincial Government to make rules as to grant of certificates of competency.

29. (*1*) The [2][~~Provincial~~ State Government] may [4]* * * make rules to regulate the granting of certificates of competency under this Chapter.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the times and places of holding and the mode of conducting examination of persons desirous of obtaining certificates of competency;

(*b*) the qualifications to be required of persons desirous of obtaining such certificates;

(*c*) the examination fees to be paid by such persons; and

(*d*) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

Power for Provincial Government to make rules as to grant of certificates of service.

30. The [2][~~Provincial~~ State Government] may also make rules to regulate the granting of certificates of service under section 22, and may by such rules prescribe in particular—

(*a*) the fees to be paid for such certificates, and

(*b*) the forms in which such certificates are to be framed, and the authority by whom, and the manner in which, copies are to be kept and recorded under section 23.

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[1] Coll. Stat., Vol. II.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "in its discretion".

[4] The words "with the previous sanction of the G. G. in C." rep. by the A. O. 1937.

Power for Provincial Government to make rules as to grant of licences.

[1][30A. The [2][~~Provincial~~ State Government] may also make rules to regulate the granting of licences under section 22A, and may by such rules prescribe in particular—

(*a*) the fees (if any) to be paid for such licences, and

(*b*) the forms in which such licences are to be framed and the authority by whom and the manner in which copies are to be kept and recorded under section 23.]

Area in which certificates of competency or service and licences shall have effect.

31. [3][A certificate of competency or service or a licence granted under this Chapter] shall have effect throughout the ~~Province~~ State in which it was granted:

Provided that the authority granting such certificate [4][or licence] may, by endorsement thereon, restrict the effect of such certificate [4][or licence] to any part of such ~~Province~~ State.

Provided further that such certificate [4][or licence] may be endorsed by the [2][~~Provincial~~ State Government] of any [illegible] other ~~Province~~ State, or with the general or special sanction of the [2][~~Provincial~~ Government] of such other ~~Province~~ State, by the authority granting it so as to have effect in such other ~~Province~~ State or any part thereof, and thereupon shall have effect accordingly.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

Report of casualties to be made to nearest police-station.

32. Whenever—

(*a*) any inland steam-vessel has been wrecked, abandoned or materially damaged; or

(*b*) by reason of any casualty happening to, or on board of, any inland steam-vessel, loss of life has ensued; or

(*c*) any inland steam-vessel has caused loss or material damage to any other vessel,

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty, or loss to the officer in charge of the nearest police-station.

Power for Provincial Government to appoint Court of investigation.

33. (*1*) If a formal investigation into the facts of any case reported under section 32 appears to the [2][~~Provincial~~ State Government] to be expedient, the [2][~~Provincial~~ State Government] may—

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[1] Ins. by the Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920), s. 8.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "Certificates of competency or service and licences granted under this Chapter shall have effect as follows, namely—

(i) A certificate of competency or service as engineer or engine-driver shall have effect throughout British India.

(ii) A certificate of competency or service as master or serang and a licence".

[4] Ins. by Act 6 of 1920, s. 9.

(*a*) appoint a special Court and direct the Court to make the investigation at such place as the [1][~~Provincial~~ State Government] may fix in this behalf; or

(*b*) direct any principal Court of ordinary criminal jurisdiction or the Court of any District Magistrate to make the investigation.

(*2*) A special Court appointed under clause (*a*) of sub-section (*1*) shall consist of not less than two nor more than four persons, of whom one shall be a Magistrate, one shall be a person conversant with maritime affairs or with the navigation of inland steam-vessels, and the other or others (if any) shall be conversant with either maritime or mercantile affairs, or with the navigation of inland steam-vessels.

Power of Court of investigation to inquire into charges of incompetency or misconduct.

34. (*1*) Any Court making an investigation under section 33 may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty, or loss referred to in section 32.

(*2*) In every case in which any such charge arises against any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or of any statement of the case upon which the investigation has been directed.

Power for Provincial Government to direct investigation otherwise than under section 33.

35. (*1*) If the [1][~~Provincial~~ State Government] has reason to believe that there are grounds for charging any master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, with incompetency or misconduct, otherwise than in the course of an investigation under section 33, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(*2*) Before commencing an investigation under sub-section (*1*), the Court shall cause the person charged to be furnished with a copy of the statement of the case sent by the [1][~~Provincial~~ State Government].

Person charged to be heard.

36. For the purpose of an investigation under this Chapter into any charge against a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

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[1] Subs. by the A. O. 1937 for "L. G."

Assessors.

37. (*1*) When, in the opinion of the Court making an investigation under this Chapter, the investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, or any person holding a certificate granted under Chapter III, the Court shall appoint as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels.

(*2*) In every other investigation the Court may, if it thinks fit, appoint as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(*3*) Every person appointed as an assessor under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings.

Powers of Court as to evidence and regulation of proceedings.

38. For the purpose of any investigation under this Chapter, the Court making the investigation shall, so far as relates to compelling the attendance and examination of witnesses, and the production of documents and the regulation of the proceedings, have—

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made; or

(*b*) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exerciseable respectively by either Court in the exercise of its criminal jurisdiction.

Power of Court to effect arrest of witnesses by entry and detention of vessels.

39. (*1*) If any Court making an investigation under this Chapter issues a warrant of arrest to compel the attendance of any person whose evidence is in its opinion necessary, it may, for the purpose of effecting the arrest, but subject to any general or special instructions issued by the [1][~~Provincial~~ State Government] in this behalf, authorise any officer to enter any vessel.

(*2*) An officer so authorised to enter any vessel may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

(*3*) No person shall be detained under this section for more than forty-eight hours.

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[1] Subs. by the A. O. 1937 for "L. G."

(Chapter IV.—Investigations into Casualties.)

Power of Court to commit for trial and to bind over witnesses.

40. Whenever, in the course of an investigation under this Chapter, it appears to the Court making the investigation that any person has committed, within [1][the ~~Provinces~~] territories to which this Act extends, an offence punishable under any law in force in [1][~~the Provinces~~] such territories, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, make in this behalf)—

(*a*) cause such person to be arrested ;

(*b*) commit him or hold him to bail to take his trial before the proper Court ;

(*c*) bind over any other person to give evidence at such trial ; and

(*d*) exercise, for the purposes of this section, all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Depositions of absent witnesses.

41. (*1*) Whenever, in the course of a trial referred to in section 40, the evidence of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this Chapter shall, if authenticated by the signature of the Magistrate or presiding Judge of such Court, be admissible in evidence on proof—

(*a*) that the witness cannot be found within the jurisdiction of the Court before which the trial is held ; and

(*b*) that the deposition was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(*2*) A certificate signed by such Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had an opportunity of cross-examining the witness shall, unless the contrary be proved, be sufficient evidence that it was so made and that the accused had such opportunity.

Report by Court to Provincial Government.

42. The Court shall, in the case of every investigation under this Chapter, transmit to the [2][~~Provincial~~ State Government] a full report of the conclusions at which it has arrived, together with the evidence recorded and the written opinion of any assessor.

Court to exercise its powers independently of the assessors.

43. Notwithstanding the appointment under section 37 of an assessor or assessors by a Court making an investigation under this Chapter, the exercise of all powers conferred on such Court by this Act shall rest with the Court alone.

Power for Provincial Government

44. (*1*) Whenever any explosion occurs on board any inland steam-vessel, the [2][~~Provincial~~ State Government] may direct that an investigation into to direct investigations into causes of explosions on steam-vessels.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "L. G.".

the cause of the explosion be made by such person or persons as it may appoint in this behalf.

(*2*) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the steam-vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel or of the machinery thereof, and shall report to the [1][Provincial Government] what, in his or their opinion, was the cause of the explosion.

(*3*) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.[2]

XLV of 1860.

CHAPTER V.

SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED UNDER THE ACT.

Power for Provincial Government to suspend or cancel certificates in certain cases.

45. [3][Any certificate granted or any endorsement made under Chapter III may be suspended or cancelled by the Government of the P~~rovince~~ State in which the certificate was granted or, as the case may be, in respect of which the endorsement was made, in the following cases, namely]—

(*a*) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or

(*b*) if the holder of such certificate is proved to have been convicted of any non-bailable offence; or

(*c*) if, in the case of a person holding a certificate of competency or service as second-class master or serang, or as engine-driver, such person is or has become, in the opinion of the State [1][~~Provincial~~ Government], unfit to act as a second-class master or serang, or as an engine-driver, as the case may be:

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[1] Subs. by the A. O. 1937 for "L.G."

[2] For s. 44A, as applicable to Bengal, *see* the Inland Steam-vessels (Bengal Amendment) Act, 1940 (Ben. 7 of 1940).

[3] Subs. by the A. O. 1937 for "Any certificate granted under Chapter III, may be suspended or cancelled by the L. G. by which, or under authority from which, it was granted, or by any other L. G. in the following cases, namely".

Provided that a certificate [1][or endorsement] shall not be suspended or cancelled under clause (*a*), unless the [2][~~Provincial~~ State Government] is satisfied that the holder of the certificate has, before the commencement of the investigation, been furnished with a copy of the report or statement of the case as required by section 34 or section 35, as the case may be.

Obligation to deliver up suspended or cancelled certificate.

46. Every person whose certificate is suspended or cancelled under this Chapter shall deliver it up to such person as the [2][~~Provincial~~ State Government] which suspended or cancelled it may direct.

Report to other Provincial Government.

47. [3][If a ~~Provincial~~ State Government suspends or cancels an endorsement under this Chapter, it] shall report the proceedings and the fact of suspension or cancellation to the [2][~~Provincial~~ State Government] by which, or under authority from which [4][the certificate] was granted.

Power for Provincial Government to revoke suspension or cancellation and to grant new certificate..

48. (*1*) Any [2][~~Provincial~~ State Government] may, at any time, revoke any order of suspension or cancellation which it may have made under this Chapter, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(*2*) A certificate so granted shall have the same effect as a certificate of competency granted under this Act after examination.

CHAPTER VI.

PROTECTION OF, AND CARRIAGE OF PASSENGERS IN, INLAND STEAM-VESSELS.

Power for Provincial Government to declare dangerous goods.

49. The [5][~~Provincial~~ State Government] may, by notification[6] in the [7][Official Gazette], declare what shall, for the purposes of this Act, be deemed to be dangerous goods.

Carriage of dangerous goods.

50. (*1*) No person shall—

(*a*) take with him on board an inland steam-vessel any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel; or

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[1] Ins. by the A. O. 1937.

[2] Subs. by the A. O. 1937 for "L. G.".

[3] Subs. by the A. O. 1937 for "If the L. G. which suspends or cancels a certificate under this Chapter is not the L. G. by which, or under authority from which, such certificate was granted, the L. G. so suspending or cancelling the certificate".

[4] Subs. by the A. O. 1937 for "such certificate".

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] For notification declaring certain articles to be dangerous goods, *see* Gen. R. & O., Supplementary Vol. III, p. 453; Gazette of India, 1933, Pt. I, p. 1181.

[7] Subs. by the A. O. 1937 for "Gazette of India".

(*b*) deliver or tender for carriage on such steam-vessel any dangerous goods without giving such notice, and without distinctly marking their nature on the outside of the package containing the goods.

(*2*) If the owner or master of an inland steam-vessel suspects, or has reason to believe, that any luggage or parcel taken, delivered, or tendered for carriage on the steam-vessel contains dangerous goods, he may—

(*i*) refuse to carry it upon the steam-vessel ; or

(*ii*) require it to be opened to ascertain the nature of its contents ; or

(*iii*) if it has been received for carriage, stop its transit until he is satisfied as to the nature of its contents.

Power of owner or master of steam-vessel to throw overboard dangerous goods.

51. Where any dangerous goods have been taken or delivered on board any inland steam-vessel in contravention of section 50, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so caused the goods to be thrown overboard, be subject to any liability, civil or criminal, in any Court.

Power for Provincial Government to make rules for protection of inland steam-vessels from accidents.

52. (*1*) The [1][~~Provincial~~ State Government] may make rules for the protection of inland steam-vessels against explosion, fire, collision and other accidents.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;

(*b*) prescribe precautions to be taken to prevent explosions or fires on board inland steam-vessels;

(*c*) prescribe the apparatus which is to be kept on board inland steam-vessels, for the purpose of extinguishing fires ;

(*d*) regulate the making of sound signals;

(*e*) regulate the carriage and exhibition of lights by inland steam-vessels;

(*f*) regulate the carriage and exhibition of lights by other vessels on specified inland waters on which steam-vessels ply;

(*g*) prescribe the steering rules to be observed;

(*h*) regulate the towing of vessels astern or alongside;

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[1] Subs. by the A. O. 1937 for " L. G."

(*i*) prescribe the speed at which inland steam-vessels may be navigated in specified areas; and

(*j*) regulate the navigation of inland steam-vessels to prevent danger to other vessels, or to the banks, channels, navigation marks or any property, moveable or immoveable, in or abutting on navigable channels.

(*3*) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power for Provincial Government to make rules as to carriage of passengers in inland steam-vessels.

53. (*1*) The [1][~~Provincial~~ State Government] may make rules to regulate the carriage of passengers in inland steam-vessels.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels;

(*b*) provide for the payment of fares, and the exhibition of tickets or receipts (if any) showing the payment of their fares, by passengers in inland steam-vessels; and

(*c*) regulate generally the conduct of passengers in inland steam-vessels.

(*3*) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to twenty rupees.

(*4*) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section if the name and address of such person are unknown to the master or such other officer.

V of 1898.

(*5*) The procedure prescribed by section 59 of the Code of Criminal Procedure, 1898, in the case of arrest by private persons shall apply to every arrest made under this section.

Power for Provincial Government to make rules for protection of passengers.

54. (*1*) The [1][~~Provincial~~ State Government] may also make rules for the protection of passengers in inland steam-vessels, and may by such rules require—

(*a*) the prices of passenger tickets to be printed or otherwise denoted on such tickets; and

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[1] Subs. by the A. O. 1937 for "L. G."

(*b*) the supply, free of charge, of a sufficient quantity of fresh water for the use of such passengers.

(*2*) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with fine which may extend to fifty rupees.

Power of Provincial Government to fix maximum and minimum rates for passenger fares and freight for goods.

[1][**54A.** (*1*) The [2][~~Provincial~~ State Government] may, by notification in the [3][Official Gazette], after such inquiry as [4][it] may consider necessary, in respect of any system of inland waterways, or of any stretch of inland waterway, or of the run between any two stations on an inland waterway,—

(*a*) fix the maximum or minimum rate per mile which may be charged for passenger fares for passengers of any class travelling on inland steam-vessels;

(*b*) fix the maximum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels;

(*c*) fix the minimum rate per mile which may be charged for freight on goods of any description carried in inland steam-vessels; and

(*d*) declare what shall be deemed to be the distance between any two stations on an inland waterway for the purpose of calculating passengers' fares or freight on goods where maximum or minimum rates have been fixed under this section.

(*2*) The [2][~~Provincial~~ State Government] shall not fix any minimum rate under clause (*a*) or clause (*c*) of sub-section (*1*) in respect of any class of passengers or description of goods carried on any system of waterways, or stretch of waterway, or on the run between any two stations on an inland waterway, unless [4][it] is satisfied that the rates charged on any inland steam-vessel or group of such vessels in respect of such passengers or goods have been reduced to such an extent as to disclose an intention to force any other inland steam-vessel or group of such vessels to cease from carrying such passengers or goods.]

Power to make rules providing for the appointment of Advisory Committees.

[1][**54B.** The [5][~~Provincial~~ State Government] may make rules providing for the appointment, constitution, procedure and functions of Committees to advise the owners, agents and charterers of inland steam-vessels on questions affecting the interests of passengers and shippers of goods.]

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[1] Ins. by the Inland Steam-vessels (Amendment) Act, 1930 (13 of 1930), s. 2.
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Gazette of India".
[4] Subs. by the A. O. 1937 for "he".
[5] Subs. by the A. O. 1937 for "L. G.".

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6. Substitution of new section for section 57, Act I of 1917.- For section 57 of the principal Act, the following section shall be substituted, namely:-

"57. Penalty for neglect or refusal to deliver up or surrender certificates of survey or registration.— If the owner or master of an inland steam-vessel without reasonable cause neglects or refuses—

(a) to deliver up a certificate of survey when required under section 14 so to do; or

(b) to deliver up a certificate of registration when required under section 19N so to do; or

(c) to surrender a certificate of registration as required by section 19O,

he shall be punishable with fine, which may extend to one hundred rupees."

(Chapter VI.—Protection of, and carriage of passengers in, Inland Steam-vessels.

(Chapter VII.—Penalties and Legal Proceedings.)

CHAPTER VII.

PENALTIES AND LEGAL PROCEEDINGS.

Penalty for making voyage without certificate of survey.

55. (*1*) If any inland steam-vessel proceeds on a voyage in contravention of section 3 or section 19A, the owner and the master of the steam-vessel shall each be punishable with fine, which may extend to one thousand rupees.

(*2*) If the master or any other officer on board an inland steam-vessel which proceeds on voyage in contravention of section 3 or section 19A is a licensed pilot he shall be liable to have his licence as a pilot suspended or cancelled, for any period, by the [1][~~Provincial~~ State Government.]

Penalty for neglect to affix certificate of survey in inland steam-vessel.

56. If the certificate of survey is not kept affixed in an inland steam-vessel as required by section 10, or if the registration mark is not displayed as required by section 19H the owner and the master of the steam-vessel shall each be punishable with fine which may extend to one hundred rupees.

Penalty for neglect or refusal to deliver up certificate of survey.

57. ~~If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under section 14 so to do, he shall be punishable with fine which may extend to one hundred rupees.~~

Penalty for carrying excessive number of passengers on board.

58. If an inland steam-vessel has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and the master shall each be punishable with fine which may extend to ten rupees for every passenger over and above that number.

Penalty for serving or engaging a person to serve as master or engineer without certificate.

59. If any person—

(*a*) proceeds on any voyage in an inland steam-vessel as the master or engineer of such vessel without being at the time entitled to, and possessed of, a master's or serang's or an engineer's or engine-driver's certificate [2][or a master's or engine-driver's licence] as the case may be, as required under this Act; or

(*b*) employs as the master or engineer of an inland steam-vessel any person without ascertaining that he is at the time entitled to, and possessed of, such certificate [2][or licence],

he shall be punishable with fine which may extend to five hundred rupees.

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[1] Subs. by the A. O. 1937 for "L. G.".

[2] Ins. by the Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920), s. 10.

(*Chapter VII.—Penalties and Legal Proceedings.*)

Penalty for master failing to give notice of wreck or casualty.

60. If any master wilfully fails to give notice, as required by section 32, of any wreck, abandonment, damage, casualty, or loss, he shall be punishable with fine which may extend to five hundred rupees, and, in default of payment of such fine, with simple imprisonment for a term which may extend to three months.

Penalty for failing to deliver up suspended or cancelled certificate.

61. If any person, whose certificate is suspended or cancelled under this Act, fails to deliver up the certificate as required by section 46, he shall be punishable with fine, which may extend to five hundred rupees.

Penalty for taking or delivering or tendering for carriage dangerous goods on board inland steam-vessel without notice.

62. If any person, in contravention of section 50, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for carriage on any inland steam-vessel, he shall be punishable with fine which may extend to two hundred rupees, and the goods shall be forfeited to Government.

Penalty for misconduct or neglect endangering inland steam-vessel or life or limb.

63. If any person employed or engaged in any capacity on board an inland steam-vessel, by wilful breach or by neglect of duty, or by reason of drunkenness—

(*a*) does any act tending immediately to wreck, destroy or materially damage the vessel, or to endanger the life or limb of any person on board, or belonging to the vessel; or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any such person from immediate danger to life or limb;

he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

Levy of fine by distress of inland steam-vessel.

64. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or any rule made thereunder committed on board, or in relation to, that steam-vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the steam-vessel and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Jurisdiction of Magistrates.

65. Except in the case of an offence against any rule made under section 53, no Magistrate shall try an offence under this Act, or any rule made thereunder, unless he is a Presidency Magistrate or Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial.

66. If any person commits an offence against this Act or any rule made thereunder, he shall be triable for the offence in any place in which he may be found or which the [1][State ~~Provincial~~ Government], by notification in the [2][Official Gazette], appoints in this behalf, or in any other place in which he might be tried under any other enactment for the time being in force.

CHAPTER VIII.

SUPPLEMENTAL.

Power for Provincial Government to make general rules.

67. (*1*) The [1][State ~~Provincial~~ Government] may make rules to carry out the purposes of this Act not otherwise specially provided for.

(*2*) Any rule made under this section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power for Provincial Government to modify application of Act to certain inland steam-vessels.

68. The [1][State ~~Provincial~~ Government] may, [3]* * * by notification in the [2][Official Gazette], declare that all or any of the provisions of Chapters II 11A and III shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as may be specified in the notification.

Exemption of His Majesty's and Government vessels.

69. Save in so far as the [4][State ~~Provincial~~ Government] may, by [5]notification in the [6][Official Gazette] otherwise direct, nothing in this Act, or any rule made thereunder, shall apply to any inland steam-vessel belonging to, or in the service of, ~~His Majesty~~ [7]~~[or the Central Government or any Provincial Government]~~.

Power for Provincial Government to define tidal water.

70. The [1][~~State~~ central ~~Provincial~~ Government] may, by notification in the [2][Official Gazette], define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act:

[8][Provided that no such notification shall be made after the end of March, 1937.]

XXXVIII/50

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

[3] The words "with the previous sanction of the G. G. in C." rep. by the A. O. 1937.

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] For such notification, *see* Gen. R. & O., Vol. IV, p. 516; Gazette of India, 1917, Pt. I, p. 1864.

[6] Subs. by the A. O. 1937 for "Gazette of India".

[7] Subs. by the A. O. 1948 for "or any Government in British India" which had been subs. by the A. O. 1937 for "or the G. of I."

[8] Ins. by the A. O. 1937.

Fees recoverable as fines.

71. All fees payable under this Act may be recovered as fines under this Act.

Certificated masters of inland steam-vessels to be deemed pilots under section 31 of Act XV of 1908.

72. (1) Subject to the provisions of section 31, every master of an inland steam-vessel who possesses a master's certificate granted under this Act and in force shall, in ports to which section 31 of the Indian Ports Act, 1908, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge. XV of

[1]* * * * 72-A * * * *

Application of Act to vessels propelled by electricity or other mechanical power.

73. The provisions of this Act shall also apply to all vessels which ordinarily ply on inland waters and are propelled by electricity or other mechanical power (except steam):

Provided that the [2][~~Provincial~~ State Government] may, by notification in the [3][Official Gazette], declare that any provision of this Act shall in its application under this section to such vessels, be subject to such modifications, for the purpose of adaptation, as may be specified in the notification.

Publication of rules.

74. (1) The power to make rules conferred on a [4][~~Provincial~~ State Government] by this Act is subject to the condition of the rules being made after previous publication.

(2) All such rules shall, when made, be published in the [5][Official Gazette], and shall thereupon have effect as if enacted in this Act.

75. [*Repeals and savings.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

SCHEDULE I.

RATES OF FEES.

[*See sections 6(a) and 19(d).*]

	Tons.	Rs.
For steam-vessels of less than	100	25
,, ,, 100 tons and up to	200	40
,, ,, 200 ,, ,, ,,	350	50
,, ,, 350 ,, ,, ,,	700	60
,, ,, 700 ,, ,, ,,	1,000	80
,, ,, 1,000 ,, ,, ,,	1,500	100
,, ,, 1,500 ,, and upwards	...	120

SCHEDULE II.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1927 (XII of 1927).*

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[1] Sub-section (2) rep. by the A. O. 1948.
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Gazette of India".
[4] Subs. by the A. O. 1937 for "L. G.".
[5] Subs. by the A. O. 1937 for "local official Gazette".

After section 72 of Act I of 1917, the followin
section shall be inserted, namely:-
"72A. Endorsement of certificates and licences
granted in Pakistan.--Any certificate or licence grante
by the Government of a State in Pakistan in accordance
with the provisions of any law for the time being in for
in that Dominion corresponding to the provisions of Cha
ter II or Chapter III of this Act may, on payment of th
fees prescribed for the grant of a similar certificate
or licence under this Act, be endorsed by--
(a) the Government of any State in India, or

the general or special sanction of the Government of s
(b) with the general or special sanction of the Government of s
State, by any authority competent to grant a similar certificat
or licence under this Act
and upon any such certificate or licence being so endorsed, it
have effect as if it had been granted under this Act."

9. Insertion of new section 75 in Act I of 1917.- After sect
of the principal Act, the following section shall be inserte
namely:-

"75. Repeal and saving.— (1) If immediately before the da
which this Act comes into force in a Part B State, there is
force in that State any law which corresponds to this Act,
corresponding law shall, on that day stand repealed.

(2) Notwithstanding such repeal, anything done or any
taken in the exercise of any powers conferred by such corre
ing law shall be deemed to have been done or taken in the
cise of the powers conferred by this Act, and any penalty
curred or proceeding commenced under such corresponding la
be deemed to be a penalty incurred or proceeding commence
this Act, as if this Act were in force on the day on which
thing was done, action taken, penalty incurred, or proceed
commenced."

THE DESTRUCTION OF RECORDS ACT, 1917.

ACT NO. V OF 1917.[1]

[*28th February, 1917.*]

An Act to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers.

WHEREAS it is expedient to consolidate and amend the law providing for the destruction or other disposal of certain documents in the possession or custody of Courts and Revenue and other public officers; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Destruction of Records Act, 1917.
(1) It extends to the whole of India except Part B States

2. [*Definitions.*] *Rep. by the A. O. 1937.*

Power to certain authorities to make rules for disposal of documents.

[2]3. (*1*) The authorities hereinafter specified may, from time to time, make rules for the disposal, by destruction or otherwise, of such documents as are, in the opinion of the authority making the rules, not of sufficient public value to justify their preservation.

(*2*) The authorities shall be—

(*a*) in the case of documents in the possession or custody of a High Court or of the Courts of Civil or Criminal jurisdiction subordinate thereto,—the High Court;

(*b*) in the case of documents in the possession or custody of Revenue Courts and officers,—the Chief Controlling Revenue-authority[3]; and

(*c*) in the case of documents in the possession or custody of any other public officer,—

[4][(*i*) if the documents relate to purposes of a ~~Province~~ State, the ~~Provincial~~ State Government or any officer specially authorised in that behalf by that Government;

(*ii*) in any other case, the Central Government or an officer specially authorised in that behalf by that Government.]

[5][(*3*) Rules made under this section by any High Court or by a

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 2; and for Proceedings in Council, *see ibid.*, 1917, Pt. VI, pp. 17 and 292.

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] S. 3 has been amended in its application to the U. P. by the U. P. Board of Revenue Act, 1922 (U. P. 12 of 1922), s. 2 and Sch.

[3] For definition of Chief Controlling Revenue authority, formerly included in s. 2, *see* now the General Clauses Act, 1897 (10 of 1897), s. 3 (*9a*).

[4] Subs. by the A. O. 1937 for "the L. G., or any officer specially authorised in that behalf by the L. G."

[5] Subs. by the A. O. 1937 for the original sub-section.

Chief Controlling Revenue-authority[1] or by an officer specially authorised in that behalf by any ~~Provincial~~ State Government shall be subject to the previous approval of the ~~Provincial~~ State Government; and rules made by an officer specially authorised in that behalf by the Central Government shall be subject to the previous approval of the Central Government.]

Validation of former rules for disposal of documents.

4. All rules and orders directing or authorising the destruction or other disposal of documents in the possession or custody of any public officer, heretofore made by a [2][~~Provincial~~ State Government], or with the approval of the [2][~~Provincial~~ State Government] by any authority not empowered to make such rules under the Destruction of Records Act, 1879, shall be deemed to have had the force of law from the date on which they were made, and all such rules and orders now in force shall continue to have the force of law until they are superseded by rules made under this Act.

III of 1879.

Saving of certain documents.

5. Nothing in this Act shall be deemed to authorise the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

6. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927).*

THE SCHEDULE.—[REPEAL OF ENACTMENTS.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE KING OF OUDH'S ESTATE VALIDATION ACT, 1917.

ACT NO. XII OF 1917.[3]

[*21st March, 1917.*]

An Act to validate certain deeds of conveyance and a trust deed relating to certain properties of His late Majesty, Wajid Ali Shah, King of Oudh, and for other purposes.

WHEREAS doubts have arisen as to the validity of three deeds of conveyance, all dated the 23rd November, 1901, and a deed of declaration of trust of the same date, copies of which are set out in the Schedule to this Act, and all of which deeds purport to relate to certain properties then or formerly of His late Majesty, Wajid Ali Shah, King of Oudh (hereinafter, in this Act, called the late King), and in the case of the said trust deed to declare the trusts of a certain Emambarra, mosque and burial ground, and for the up-keep and maintenance thereof to constitute a certain Endowment Fund hereinafter in this Act referred to as the Sibtainabad Endowment Fund;

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[1] For definition of Chief Controlling Revenue-authority, formerly included in s. 2, *see* now the General Clauses Act, 1897 (10 of 1897), s. 3 (9*a*).

[2] Subs. by the A. O. 1937 for "L. G.".

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 23; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 143, 144.

AND WHEREAS by the said trust deed it was recited or assumed *inter alia* that a share amounting to rupees two hundred thousand in a certain Government Promissory Note No. 018878 for rupees five hundred thousand standing in the name of Malkai Kisshore and deposited in the Government Treasury at Lucknow belonged to the estate of the late King, and that the said share was to form a part of the Sibtainabad Endowment Fund, and the interest thereon to be applied with the interest of certain other securities in the said trust deed referred to for the up-keep and maintenance of the said Emambarra, mosque and burial ground;

AND WHEREAS all interest from the 1st of March, 1901, to the 31st of December, 1913, payable in respect of the said share of rupees two hundred thousand in the said Note has been paid and credited to the Sibtainabad Endowment Fund along with the interest of the said other securities and the said Emambarra, mosque and burial ground have been kept up and maintained thereout;

AND WHEREAS it now appears that the said share of rupees two hundred thousand did not, in fact, belong to the estate of the late King, and that on his death the interest thereon was or was intended to be payable to certain of the issue of the said Malkai Kisshore, and that the inclusion of the interest of the said share in the Sibtainabad Endowment Fund was due to a misapprehension;

AND WHEREAS there is now standing to the credit of the Sibtainabad Endowment Fund the sum of rupees seventy-seven thousand eight hundred and fifty-six being the accumulated balance after providing for the upkeep and maintenance of the said Emambarra, mosque and burial ground;

AND WHEREAS it is expedient that the said deeds of conveyance and the said trust deed and all acts and things done thereunder should be validated, and that at the same time it should be formally declared that the said share of rupees two hundred thousand no longer forms a part of the Sibtainabad Endowment Fund, and that the interest thereon shall be made available as from the 1st of January, 1914, for the persons who may hereafter be deemed entitled thereto under the provisions hereinafter appearing;

AND WHEREAS it is just and equitable that the said sum of rupees seventy-seven thousand eight hundred and fifty-six should be released from the trusts of the said trust deed and should also be made available for distribution amongst the persons so entitled;

AND WHEREAS it is also expedient to provide for the future management and distribution of the said share of rupees two hundred thousand and of the interest accrued due since the 1st of January, 1914, and hereafter accruing due from time to time in respect thereof and also for the distribution of any future surplus monies which may accrue to the said Sibtainabad Endowment Fund after providing for the up-keep and maintenance of the said Emambarra, mosque and burial ground;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the King of Oudh's Estate Validation Act, 1917.

Validation of certain deeds.

2. Notwithstanding anything contained in any enactment or any rule of law to the contrary, the three deeds of conveyance and the trust deed, copies of which are set out in the Schedule, and all acts and things done under the said deeds are, save as is hereinafter provided, validated and confirmed:

Provided that, with effect from the 1st of January, 1914, the said trust deed shall be construed as if no reference had been made therein to the share of rupees two hundred thousand of the said Government Promissory Note, and as if the sum of rupees thirteen thousand six hundred and thirty-four had been mentioned in the twelfth recital thereof instead of the sum of rupees sixteen thousand, and the sum of rupees four hundred thousand instead of the sum of rupees six hundred thousand, and with such further alterations and modifications as this construction may require.

Payment of Rs. 77,856 from the Fund.

3. The sum of rupees seventy-seven thousand eight hundred and fifty-six shall be released from the trusts of the said trust deed, and shall be paid from the surplus monies of the said Sibtainabad Endowment Fund to such officer as the [1][Central Government] may appoint, and shall be distributed in the manner hereinafter provided.

Distribution.

4. The sum referred to in section 3 and any further sums which the [1][Central Government] may at any time declare to be surplus monies of the Sibtainabad Endowment Fund as [2][it] is hereby empowered to do, and all sums payable in respect of interest on the said share of the said Government Promissory Note accrued due since the 1st of January, 1914, or hereafter to accrue due from time to time in respect thereof, are hereby declared to be pensions, and the said share of the said note is hereby declared to be a grant of money within the meaning of the Pensions Act, 1871, and that Act shall apply to such sums as if they were pensions of the classes referred to in sections 4 and 11 of the said Act and to the said share as if it was a grant of the class referred to in section 4 of the said Act, subject, however, to the following modifications, namely:— XXIII of 1871.

(i) any claim under section 5 of the said Act as applied shall be preferred to such officer as the [3][Central Government] may authorise in this behalf;

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "he".
[3] Subs. by the A. O. 1937 for "L. G."

(*ii*) the power of commutation conferred by section 10 of the said Act shall be exercisable without the consent of the holder where the payment to be made is at a rate less than a rate of rupee one per month ; and

(*iii*) the power to make rules conferred by sections 5 and 14 of the said Act shall extend to a power to make rules prescribing the persons or classes of persons to whom, and the principles on which, all distributions under this Act shall be made.

[1]THE SCHEDULE. [*omitted.*]

THE PATNA UNIVERSITY ACT, 1917.

ACT NO. XVI OF 1917.[2]

[*18th September, 1917.*]

An Act to establish and incorporate a University at Patna.

WHEREAS it is expedient to establish and incorporate a University at Patna, to be known as the Patna University ; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Patna University Act, 1917.

(*2*) It shall come into force[3] on such date[4] as the [5][Central Government] may, by notification in the [6][Official Gazette], direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[7][" College " means an institution admitted to the University in accordance with the provisions of this Act and the Regulations ;]

[8]* * * * * * * *

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[1] *See* the collection of the Acts passed by the G. G. of India in C. in the year 1917.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1916, Pt. V, p. 82; for Report of Select Committee, *see ibid.*, 1917, Pt. V, p. 78 and for Proceedings in Council, *see ibid.*, 1916, Pt. VI, p. 572, and *ibid.*, 1917, Pt. VI, pp. 24, 294, 540, 719, 862 and 877.

[3] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[4] This Act was brought into force on the 1st October 1917, *see* Notification No. 834, dated the 1st October, 1917; Gen. R. and O., Vol. IV, p. 526; Gazette of India, 1917, Pt. I, p. 1641.

[5] Subs. by the A. O. 1937 for " G. G. in C."

[6] Subs. by the A. O. 1937 for " Gazette of India ".

[7] Subs. by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 2, for the original definition.

[8] The definitions of " College of the University " and " External College " were rep. by s. 2, *ibid.*, and the definition of " Local Government " by the A. O. 1937.

"Regulations" means Regulations for the time being in force of the University;

"Senate" means the University Senate;

"Syndicate" means the University Syndicate;

[1]* * * * * *; and

"University" means the Patna University.

Incorporation.

3. (*1*) The first Chancellor and Vice-Chancellor of the University, and the first members of the Senate, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Patna University.

(*2*) The Patna University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

(*3*) The University shall be deemed to have been incorporated for the purposes, among others, of making provision for imparting education, of promoting original research, of examining students and conferring degrees, of admitting educational institutions to its privileges, [2][and of inspecting the colleges and supervising all matters of education and discipline therein].

Authorities and officers of the University

4. The following shall be the authorities and officers of the University:—

(*i*) the Chancellor;
(*ii*) the Vice-Chancellor;
(*iii*) the Senate;
(*iv*) the Syndicate;
(*v*) the Registrar; and
(*vi*) such other authorities and officers as the Regulations may declare to be authorities or officers of the University.

The Chancellor.

5. [3][(*1*) The Governor of Bihar for the time being shall be the Chancellor.]

(*2*) The Chancellor shall, by virtue of his office, be the head of the University, and shall, when present, preside at Convocation of the University convened for the purpose of conferring degrees and for other purposes.

(*3*) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

(*4*) The Chancellor shall finally decide any dispute with regard to the election of any person to be a member of the Senate or Syndicate.

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[1] The definition of "University Staff" rep. by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 2.

[2] Subs. by s. 3, *ibid.*, for the original words.

[3] Subs. by the Patna University (Amendment) Act, 1948 (Bihar 18 of 1948), s. 2, for the former sub-section.

[1][(5) The Chancellor shall have the right to make an inspection, or to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, workshops and equipment and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to make an inquiry or to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to make an inspection or inquiry or to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.]

[2][(6) The Chancellor may, by order in writing annul any proceeding of the University which is not in conformity with this Act and the Regulations:

Provided that, before making any such order, he shall call upon the University to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same.]

The Vice-Chancellor.

6. (*1*) The Vice-Chancellor shall be appointed by the [3][Provincial Government], and shall hold office for three years from the date of his appointment, on the expiration of which period he may be re-appointed from time to time, provided that no such re-appointment shall be for a longer period than two years.

(*2*) The Vice-Chancellor shall, when present, preside at every meeting of any University authority of which he is a member and at Convocation of the University when the Chancellor is not present.

(*3*) The Vice-Chancellor shall appoint and control every [4]* * * servant of the University [5]* * * whose aggregate emoluments do not exceed two hundred rupees per mensem.

(*4*) The Vice-Chancellor shall have the right of visiting and inspecting the colleges.

The Senate.

7. [6][(*1*) The Senate shall consist of the following Fellows, namely:—

CLASS I.—*Ex-officio Fellows.*

(*i*) the Vice-Chancellor ;
(*ii*) the Ministers of the Governor of Bihar ;
(*iii*) the Chief Justice of the High Court of Judicature at Patna ;

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[1] Subs. by the Patna University (Amendment) Act, 1923 (B. & O. 3 of 1923), s. 2, for the original sub-section.

[2] Ins. by s. 2, *ibid.*

[3] Subs. by the A. O. 1937 for "L. G."

[4] The words "officer and" rep. by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 4.

[5] The words and brackets "(other than the members of the University Staff)" rep. by s. 4, *ibid.*

[6] Subs. by the Patna University (Amendment) Act, 1948 (Bihar 18 of 1948), s. 3, for the former sub-section.

(*iv*) the Secretary to the Government of Bihar in the Education Department ;

(*v*) the Director of public Instruction, Bihar ;

(*vi*) the Inspector-General of Civil Hospitals, Bihar ;

(*vii*) the Director of Industries, Bihar ;

(*viii*) the Principals of colleges in which instruction is given to a degree standard ;

CLASS II.—*Fellows for life.*

(*i*) such persons, not exceeding five in number, as may be appointed by the Chancellor on the ground that they have rendered eminent services to the cause of education ;

(*ii*) all persons who have given, whether in one or more instalments, a sum of not less than one lakh of rupees to or for the purposes of the University or of a college ;

CLASS III.—*Representative Fellows.*

(*i*) twenty-six persons to be elected by the teaching staffs of the colleges, of whom one at least shall be elected from and by the teaching staff of each college in which instruction is given to a degree standard ;

(*ii*) five persons to be elected by the graduate teachers of schools in which instruction is given to a standard prescribed by the Regulations ;

(*iii*) twenty-one registered graduates to be elected from and by such registered graduates as are not for the time being included, or who would not on payment of any fee prescribed by the Regulations, be eligible for inclusion, in either of the electorates referred to in sub-heads (*i*) and (*ii*) ;

(*iv*) five persons to be elected by such associations or public bodies and in such number by each such association or body as the Chancellor may direct ;

(*v*) ten persons to be elected by the members of the Bihar Legislative Assembly from among their own number in such manner as may be prescribed by the Regulations ;

(*vi*) two persons to be elected by the members of the Bihar Legislative Council from among their own number in such manner as may be prescribed by the Regulations:

Provided that the elections under the sub-heads (*i*) and (*iii*) shall be made subject to such conditions as to the representation on the Senate of all the Faculties of the University as may be prescribed by the Regulations ; and

CLASS IV.—*Nominated Fellows.*

not more than seventeen Fellows to be nominated by the Chancellor subject to the Regulations.]

[1][(*2*)] Subject to the provisions of this Act and the Regulations, the Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall exercise all the powers of the University not otherwise provided for.

In particular, and without prejudice to the generality of the foregoing power,

(*i*) it shall determine—

(*a*) what degrees and diplomas shall be granted by the University ;

(*b*) the courses of study and the duration thereof ;

(*c*) the time in a student's career at which such courses shall be taken ;

(*d*) what subjects or groups of subjects shall be regarded as qualifying for each degree ;

(*e*) whether any new subject of instruction shall be included in the curriculum of [2][any college], or whether any subject previously taught shall be omitted therefrom ;

(*f*) whether the standard to which instruction is given in any subject shall be raised or lowered ; and

(*ii*) it shall pass the Budget.

[1][(*3*)] Save on a reference made to it by not less than six members of the Syndicate jointly, the Senate shall not have power to review any act of the Syndicate duly done in the exercise of its powers under this Act or the Regulations in respect of any of the following matters:—

(*a*) the appointment of members of the Faculties and Boards of Studies, the determination of the procedure of such Faculties or boards and of the quorum of members required for the transaction of business ;

(*b*) the appointment and remuneration of examiners and the determination of their duties and powers ;

(*c*) the award of scholarships and prizes ;

[3]* * * * * * *

[3][(*d*)] the prescription of text-books for the courses of study ; and

[3][(*e*)] the general disciplinary control over the students of the University.

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[1] The original sub-sections (*4*) and (*5*) were renumbered (*2*) and (*3*) respectively by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 5.

[2] Subs. by s. 5, *ibid.*, for " the University or of any of its colleges ".

[3] The original cl. (*d*) was omitted and cls. (*e*) and (*f*) were re-lettered (*d*) and (*e*) respectively by s. 5, *ibid*.

The Syndicate.

8. [1][(*1*) The Syndicate shall consist of the following members of the Senate, namely:—

(*i*) the Vice-Chancellor, *ex-officia ;*

(*ii*) the Director of Public Instruction, Bihar, *ex-officio ;*

(*iii*) two Principals and two Professors to be nominated by the Chancellor from four different colleges ;

(*iv*) one officer of the ~~Provincial~~ State Government connected with education to be nominated by the Chancellor ; and

(*v*) twelve members to be elected by the Senate from among its members in such manner as may be prescribed by the Regulations, of whom—

(*a*) five shall be wholetime members of the staff of a college and not more than one shall be elected from any college ;

Explanation.—A member of the staff of the Prince of Wales Medical College who also works at the Patna Medical College Hospital or a member of the staff of the Darbhanga Medical College who also works at the Darbhanga Medical College Hospital shall, for the purposes of this sub-clause, be deemed to be a wholetime member of the staff of the Prince of Wales Medical College or the Darbhanga Medical College, as the case may be ; and

(*b*) seven shall be persons who are not members of the staff of any college or any school.]

[2][(*1a*) (*i*) If an elected member of the Syndicate dies, or resigns, or otherwise ceases to hold office, the Syndicate may appoint to be a member of the Syndicate a person who would be eligible for election to fill the vacancy so caused ;

(*ii*) a person appointed to be a member of the Syndicate under clause (*i*) shall hold office until the next ordinary meeting of the Senate.]

[3][(*2*)] In addition to the matters referred to in section [4][7 (*3*)], the Syndicate shall determine, subject to the provisions of section [5][7 (*2*)] and the Regulations, the standard of proficiency to be required for ordinary degrees, shall control the courses of study [6][and the examinations and shall be responsible for the supervision and inspection of the colleges.]

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[1] Subs. by the Patna University (Amendment) Act, 1948 (Bihar 18 of 1948), s. 4, for the former sub-section.

[2] Ins. by the Patna University (Amendment) Act, 1934 (B. & O. 9 of 1934), s. 3.

[3] The original sub-section (*4*) was re-numbered (*2*) by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 6.

[4] Subs. by s. 6, *ibid.*, for "7 (*5*)".

[5] Subs. by s. 6, *ibid.*, for "7 (*4*)".

[6] Subs. by s. 6, *ibid.*, for the original words.

Proceedings not to be invalidated by casual vacancies.

[1][**8A.** No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of any casual vacancy or vacancies among its members.]

Admission of educational institutions as colleges.

9. [2]*No educational institution shall be admitted as a college, unless the following conditions are complied with, namely:—

(*a*) the admission of the institution as a college has, on application made, and after the Syndicate has recorded its opinion on such application, been approved by the Senate and the [3][Provincial Government] ; and

(*b*) all provisions of the Regulations relating to the admission of educational institutions as colleges have been substantially complied with.

[2]* * * * * * * * *

Exclusion of a college from the privileges of the University.

10. (*1*) Any member of the Syndicate may bring forward a proposal that a college be deprived, either in whole or in part, of its privileges.

(*2*) The Syndicate shall, after affording the governing body of the college all reasonable facilities for stating its objections to the proposal, consider the proposal and transmit a copy of its proceedings, including a copy of any representation which may be made by such governing body thereon, to the Senate.

(*3*) The Senate shall consider the proposal and shall, if it approves the same either with or without modification, transmit a copy of the proceedings of the Syndicate and of its own proceedings to the [3][Provincial Government].

(*4*) The [3][~~Provincial~~ State Government], after such further inquiry, if any, as may appear to it to be necessary shall, in so far as it agrees with the opinion of the Senate, express its concurrence therewith, and thereupon, the college shall be deprived of such privileges as the decision of the Senate and the [3][~~Provincial~~ State Government] (which shall be communicated to it) may specify.

Termination of privileges granted by other Universities to educational

11. Notwithstanding anything in any other law for the time being in force, no University in [4][the ~~Provinces~~ States] other than the Patna University shall, after the commencement of this Act, admit any educational institution in the ~~Province~~ State of Bihar [5]* * * to any privileges institutions in Bihar or Orissa.

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[1] Ins. by the Patna University (Amendment) Act, 1923 (B. & O. 3 of 1923), s. 3.

[2] The brackets and figure " (*1*) " before sub-section (*1*) and sub-sections (*2*) and (*3*) were rep. by B. & O. Act 1 of 1932, s. 7.

[3] Subs. by the A. O. 1937 for " L. G."

[4] Subs. by the A. O. 1948 for " British India ".

[5] The words, brackets and figures " or in the Province of Orissa, exclusive of those areas comprised therein which were transferred from the Presidency of Madras by the Government of India (Constitution of Orissa) Order, 1936 ", which had been subs. by the A. O. 1937 for " and Orissa ", rep. by the Patna University (Amendment) Act, 1948 (Bihar 18 of 1948), s. 5.

whatever, and any such privileges granted by any such other University to any educational institution in that ~~Province~~ State prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act:

Provided that any educational institution which, in accordance with the provisions of this section, has been deprived of any such privileges shall, notwithstanding the provisions of section 9, be deemed to have been granted the like privileges by the Patna University.

University staff.

12. The [1][Officers of the University other than the Vice-Chancellor] shall be appointed by the Chancellor after considering the recommendations of the Syndicate and the Senate:

Provided that in the case of a person paid from the funds of the University whose term of appointment does not extend beyond a total period of six months, the appointment shall rest with the Syndicate subject to the sanction of the Chancellor.

Audit of accounts.

13. The accounts of the University shall, once at least in every year, and at intervals of not more than fifteen months, be audited by auditors appointed by the [2][~~Provincial~~ State Government], and a copy of the accounts, together with the auditors' report, shall be published in the [3][Official Gazette].

Central Board at Patna.

[4][**13A.** (*1*) There shall be a Central Board at Patna consisting of the Vice-Chancellor, each Principal of a college at Patna and eight members appointed by the Syndicate from the governing bodies of such colleges, of whom four shall be, and four shall not be, members of the staff of a college.

(*2*) The Central Board shall be subordinate to the Syndicate.

(*3*) The Central Board shall have the following powers in respect of the colleges at Patna, namely:—

(*a*) to arrange for inter-collegiate lectures;

(*b*) to promote the health and the general welfare of the students; and

(*c*) to promote the corporate life of the students.]

Regulations.

14. (*1*) Subject to the provisions of this Act, the Regulations—

(*i*) shall provide for the following matters:—

(*a*) the election and all matters connected therewith of [5][Representative Fellows of the Senate] and so as to include provisions for the adequate representation of all the Faculties of the University among the Fellows to be elected [1][by the registered graduates and] by the teaching staffs of the colleges;

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[1] Subs. by the Patna University (Amendment) Act, 1932 (B. & O. 1 of 1932), s. 8, for "members of the University staff".

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "local official Gazette".

[4] Ins. by B. & O. Act 1 of 1932, s. 9.

[5] Subs. by s. 10, *ibid.*, for "Ordinary Fellows or members of the Senate and Syndicate".

[2][(*b*) the election and all matters connected therewith of the elected members of the Syndicate ;]

(*c*) the duration of the term of office of the [3][Fellows of the Senate and the members of the Syndicate, other than life and *ex-officio* Fellows and *ex-officio* members] ;

(*d*) the maintenance for the purpose of constituting [4][the electorates referred to in Sub-heads (i), (ii) and (iii) of Class III of section 7 (*1*)] of [5][registers of college teachers, school teachers and graduates] including, for such period as may be thereby prescribed, graduates of any other University who are ordinarily resident in Bihar [6]* * * and the conditions subject to which entries may be made therein; and

(*e*) the procedure to be followed at meetings of the Senate and Syndicate and the quorum of Fellows or members required to be present for the transaction of business; and

(*ii*) may provide for all or any of the following matters:—

(*a*) the constitution, powers and duties of the Faculties, Boards of Studies, or such other authorities or bodies, as it may be deemed necessary, from time to time, to appoint ;

(*b*) the conditions of appointment and the powers and duties of the [7][officers (other than the Vice-Chancellor) and servants of the University] ;

(*c*) the constitution and functions of the governing bodies of the colleges;

(*d*) the admission of educational institutions as colleges, and the withdrawal of privileges from colleges so admitted;

(*e*) the admission of students to the University and their examination;

(*f*) the residential arrangements for students of the University;

(*g*) the mode of appointment and duties of examiners ;

(*h*) the conferment and withdrawal by the University of degrees, diplomas, certificates and other academic distinctions;

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[1] Ins. by s. 10 of the Patna University (Amendment) Act, 1932 (B. & O. Act 1 of 1932).

[2] Subs. by s. 10, *ibid.*, for the original cl. (*b*).

[3] Subs. by s. 10, *ibid.*, for "Ordinary Fellows or members of the Senate and Syndicate".

[4] Subs. by s. 10, *ibid.*, for "the electorates referred in s. 7 (*3*) (i) (*c*)".

[5] Subs. by s. 10, *ibid.*, for "a register of graduates".

[6] The words "or in Orissa", which had been subs. by the A. O. 1937 for "and Orissa", rep. by the Patna University (Amendment) Act, 1948 (Bihar 18 of 1948), s. 6.

[7] Subs. by s. 10 of B. & O. Act 1 of 1932, for "Registrar, Professors and other officers of the University, whether being members of the University staff or not".

(*i*) the general discipline and control of the University [1]* * *;

(*j*) the accounts to be kept and the use to be made of the funds of the University; and

(*k*) generally for carrying out the provisions of this Act.

[2]* * * * * * * *

[2][(*2*)] The Senate may, from time to time, make new or additional Regulations, or may amend or repeal the Regulations.

[2][(*3*)] The Syndicate may from time to time lay before the Senate any proposals for new Regulations or for the amendment or repeal of any of the existing Regulations, and it shall be the duty of the Senate duly to consider all such proposals.

[2][(*4*)] All new Regulations, or additions to the Regulations, or amendments to, or repeals of, the Regulations shall require the previous sanction of the [3][~~Provincial~~ State Government], which may sanction, disallow, or remit the same for further consideration.

THE FIRST SCHEDULE.—[*ORDINARY FELLOWS OF THE FIRST SENATE.*] *Rep. by the Patna University* (*Amendment*) *Act, 1932* (*B. & O. Act 1 of 1932*), *s. 12.*

THE SECOND SCHEDULE.—[*ORDINARY MEMBERS OF THE FIRST SYNDICATE.*] *Rep. by the Patna University* (*Amendment*) *Act, 1932* (*B. & O. Act 1 of 1932*), *s. 12.*

THE POST OFFICE CASH CERTIFICATES ACT, 1917.

ACT No. XVIII OF 1917.[4]

[*19th September, 1917.*]

An Act to restrict the transfer of Post Office 5-year Cash Certificates and to provide for the payment of Certificates standing in the name of deceased persons.

WHEREAS it is expedient to restrict the transfer of Post Office 5-year

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[1] The words "and of the colleges of the University" rep. by s. 10 of the Patna University (Amendment) Act, 1932 (B. & O. Act 1 of 1932).

[2] Sub-sections (*2*) and (*3*) were omitted, and sub-sections (*4*), (*5*) and (*6*) were re-numbered (*2*), (*3*) and (*4*), respectively, by s. 10, *ibid.*

[3] Subs. by the A. O. 1937 for "L. G."

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 75; and for Proceedings in Council, *see ibid.*, 1917, Pt. VI, pp. 705 and 929.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch. It has also been applied to Porahat Estate in the district of Singhbhum by the Porahat Estate Laws Regulation, 1945 (Bihar Reg. 1 of 1945).

Cash Certificates and to provide for the payment of Certificates standing in the name of deceased persons; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Post Office Cash Certificates Act, 1917.

Prohibition of transfer of Post Office 5-year Cash Certificates without the consent of an authorised officer.

2. (*1*) Notwithstanding any provision in any enactment or any rule of law for the time being in force to the contrary, no transfer (whether made before or after the commencement of this Act) of a Post Office 5-year Cash Certificate shall be valid without the previous consent in writing of [1][an officer of the Post Office authorised by general or special order of the [2][Central Government] in that behalf].

(*2*) In this section "transfer" means a transfer *inter vivos* and does not include a transfer by operation of law.

Payment on death of holder of Post Office 5-year Cash Certificate.

V of 1873.

3. (*1*) If a person dies and is at the time of his death the holder of a Post Office 5-year Cash Certificate, payment of the sum for the time being due on such Certificate may be made in the manner provided in the Government Savings Banks Act, 1873, for the payment of deposits belonging to the estates of deceased persons, and the provisions of sections 4 to 9 of the said Act shall apply accordingly as if the holder of such Certificate were a depositor in a Government Savings Bank and the sum for the time being due on such certificate were a deposit in such a Bank [3][and as if for the words "three thousand" in [4][section 8] of the said Act the words "five thousand" were substituted]:

Provided that the powers conferred by the said provisions on the Secretary of a Government Savings Bank shall be exercisable by the Post Master-General for the area within which the post office of issue of such Certificate is situate [5][or if that area is in Pakistan, by the Postmaster-General for such area in India as the Central Government may by general or special order specify in this behalf]:

Provided further that, where in any one case payment is to be made of Certificates issued from more post offices than one, the said powers shall be exercisable by the Post Master-General for the area in which any of the said post offices is situate.

(*2*) Nothing in sub-section (*1*) shall be deemed to require any person to accept payment of the amount due on a Post Office 5-year Cash Certificate before the same has reached maturity.

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[1] Subs. by the Post Office Cash Certificates (Amendment) Act, 1920 (32 of 1920), s. 2 for "the Post Master-General for the area in which the post office of issue is situate".

[2] Subs. by the A. O. for "G. G. in C.".

[3] Ins. by Act 32 of 1920, s. 3.

[4] Subs. by the Government Savings Bank (Amendment) Act, 1943 (2 of 1943), s. 3 for "sections 4 and 8".

[5] Ins. by the A. O. 1948.

THE SIR CURRIMBHOY EBRAHIM BARONETCY (AMENDMENT) ACT, 1917.

ACT NO. XXV OF 1917.

[27th September, 1917.]

An Act to amend the Sir Currimbhoy Ebrahim Baronetcy Act, 1913.

WHEREAS since the passing of the Sir Currimbhoy Ebrahim Baronetcy Act, 1913, Sir Currimbhoy Ebrahim has made a representation to the Governor of Bombay in Council to the effect that his original intention was that the Sinking Fund of Rs. 20,00,000 (twenty lakhs), referred to in the said Act, should be formed in a period of sixty years by carrying to the credit of the said fund annually and investing an amount equal to 00.61 per cent. calculated on the amount of the Sinking Fund to be so formed, and that the Repairs Fund of Rs. 2,00,000 (two lakhs), also referred to in the said Act, should be formed in a period of twenty years by carrying to the credit of that Fund annually and investing an amount equal to 3·72 per cent., calculated on the amount of the Repairs Fund to be so formed but that the said Act, owing to a mistake, provided that the said percentages should be carried to the credit of the said respective funds every six months instead of every year; IV of 1913.

AND WHEREAS under the orders of the Governor of Bombay in Council an inquiry into the matters aforesaid was directed to be held by the Advocate-General at Bombay who, after careful investigation and recording evidence, reported to the Governor of Bombay in Council that there had been a *bonâ fide* mistake in the drafting of the said Act and that the original intention of Sir Currimbhoy Ebrahim was that the percentages of Rs. 00.61 and Rs. 3.72 and no more should be set aside each year.

AND WHEREAS it is expedient to amend sections 7 and 14 of the said Act for the purpose of giving effect to the intention aforesaid; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Sir Currimbhoy Ebrahim Baronetcy (Amendment) Act, 1917.

Amendment of sections 7 and 14 of Act IV of 1913.

2. (*1*) In sections 7 and 14 of the Sir Currimbhoy Ebrahim Baronetcy Act, 1913 (hereinafter called the said Act), for the words " six months " wherever they occur shall be substituted the word " year ". IV of 1913.

(*2*) The said Act shall be read and construed as if the amendments hereby enacted had formed part of the said Act from its commencement.

THE TRANSFER OF PROPERTY (VALIDATING) ACT, 1917.

ACT No. XXVI OF 1917.[1]

[27th September, 1917.]

An Act to validate certain transfers of property made prior to the 1st of January, 1915.

WHEREAS it is expedient to validate certain transfers of property made prior to the 1st of January, 1915; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Transfer of Property (Validating) Act, 1917.

(*2*) It shall extend, in the first instance, to the ~~United Provinces of Agra and Oudh,~~ Uttar Pradesh provided that the [2][~~Provincial~~ the Government of any ~~Province~~] other Part A State or Part C State may, by notification[3] in the [4][Official Gazette], extend it to [5][the whole or any part of that ~~Province~~] State

Validation of certain transfers made prior to the 1st of January, 1915.

IV of 1882.

2. Where a mortgage or gift purports to have been effected by an instrument executed prior to the 1st of January, 1915, and such instrument is required by the Transfer of Property Act, 1882, to be attested, such mortgage or gift shall not be deemed to be invalid by reason only that any person who purported to attest such instrument as a witness did not see the executant sign it, provided that such person before signing his name on the instrument received from the executant a personal acknowledgment of his signature to the same.

Restoration of certain claims.

3. Where a claim under any such instrument executed prior to the 1st of January, 1915, has been wholly or in part dismissed, rejected, or withdrawn, after the 30th day of July, 1912, and before the commencement of this Act, in a Court of first instance or of revision or appeal, by reason only of the fact that some person who purported to attest such instrument as a witness, on having received before signing his name thereon a personal acknowledgment from the executant of his signature to the same, did not see the executant sign it, the case may, if the dismissal, rejection or withdrawal has had the effect of invalidating, in whole or in part, the said instrument as between persons claiming thereunder, be restored on review in accordance with the procedure provided by the

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1916, Pt. V, p. 81; for Report of Select Committee, *see ibid.*, 1917, Pt. V, p. 29, and for Proceedings in Council, *see ibid.*, 1916, Pt. VI, pp. 321, 508, and *ibid.*, 1917, Pt. VI, pp. 206 and 1111.

[2] Subs. by the A. O. 1937 for "G. G. in C.".

[3] For notification extending the Act to Ajmer-Merwara, *see* Gazette of India, 1921, Pt. I, p. 3.

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Subs. by the A. O. 1937 for "any other part of British India specified in the notification".

~~Code of Civil Procedure, 1908, for review of judgments, on application in writing made within six months from the commencement of this Act; and on such restoration, the provisions of section 2 shall apply to such instrument:~~ Act V of 1908.

~~Provided nevertheless—~~

~~(*1*) that every Court to whom such an application is made shall have a discretion to refuse the same if it is of opinion that such restoration would prejudice the rights of any transferee for value in good faith under any transfer made subsequent to the said 30th day of July, 1912;~~

~~(*2*) that in the event of a decree being passed upon such application in favour of the applicant or his legal representative, interest shall only be allowed under such instrument at the contractual rate up to the date of the original dismissal, rejection or withdrawal of such claim, and for a period of six months therefrom, and at the rate of 6 per cent. thereafter until realization; and~~

~~(*3*) that in the event of the case being so restored the Court shall be bound by the finding of the former Court, by or before whom the case was dismissed, rejected or withdrawn, on any issue of fact which was heard and finally determined by it.~~

THE CINEMATOGRAPH ACT, 1918.

ACT No. II OF 1918.[1]

[*6th March, 1918.*]

An Act to make provision for regulating exhibitions by means of Cinematographs.

WHEREAS it is expedient to make provision for regulating exhibitions by means of cinematographs; It is hereby enacted as follows:—

Short title. **1.** (*1*) This Act may be called the Cinematograph Act, 1918.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 74; for Report of Select Committee, *see ibid.*, 1918, Pt. V, p. 11; and for Proceedings in Council, *see ibid.*, 1917, Pt. VI, p. 703, and *ibid.*, 1918, Pt. VI, pp. 38, 94 and 275.

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941). It has been amended in the U. P. by U. P. Act, 7 of 1942.

2. Amendment of section 1, Act II of 1918.—In section I of the Cinematograph Act, 1918 (hereinafter referred to as the said Act), for sub-sections (2) and (3), the following sub-section shall be substituted, namely:-

"(2) It extends to all Part A States and Part C States, and also to every Part B State other than Hyderabad and Jammu and Kashmir in so far as it relates to the sanctioning of Cinematograph films for exhibition.

"Authority" means the Authority constituted by the Central Government under section 6; and

4. Insertion of new section 2A in Act II of 1918.— After section 2 of the said Act, the following section shall be inserted, namely:-

"**2A. Rule of construction in the application of Act to Part B States.**—In the application of this Act to any Part B State, unless there is anything repubnant in the subject or context, -

~~(a) references to a Province or the Provincial Government shall be construed as references to that Part B State or the Government of that Part B State, as the case may be;~~

~~(b) references to the District Magistrate shall be construed as references to the corresponding authority in the Part B State; and~~

~~(c) references to the official Gazette shall be construed as references to the corresponding official publication of that State."~~

(2) A condition shall be inserted in every licence that the licensee will not exhibit, or permit to be exhibited, in such place any film other

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[1] Subs. by the A. O. 1948 for " the whole of British India ".

[2] The words " including British Baluchistan " rep. by the A. O. 1948.

[3] Subs. by the Cinematograph (Amendment) Act, 1919 (23 of 1919), s. 2, for the original sub-section.

[4] Subs. by the A. O. 1937 for " L. G.", which had been subs. for " G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[5] Subs. by the A. O. 1937 for " local official Gazette ", which had been subs. for " Gazette of India " by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[6] For notification by the G. G. in C. bringing s. 2, sub-sections (*1*), (*2*) and (*3*), of s. 7 and s. 8 into force in the whole of British India from the 1st February, 1920, see Gen. R. & O., Vol. IV, p. 527 and Gazette of India, 1920, Pt. I, p. 268; and for notification by the G. G. in C. bringing ss. 3, 4, 5 and 6, sub-sections (*4*), (*5*), (*6*), (*7*) and (*8*) of s. 7, and s. 9 into force in the whole of British India from the 1st August, 1920, *see* Gen. R. & O., Vol. IV, p. 527 and Gazette of India, 1920, Pt. I, p. 1438.

[7] The words " or in the town of Rangoon " rep. by the A. O. 1937.

[8] Subs. by the A. O. 1937 for " L. G."

[9] Subs. by the A. O. 1937 for " local official Gazette ".

than a film which has been certified as suitable for public exhibition by [1][an authority constituted under section *7*], and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

(*3*) Subject to the foregoing provisions of this section, and to the control of the [2][Provincial Government], the licensing authority may grant licences under this Act to such persons as it thinks fit, and on such terms and conditions, and subject to such restrictions as it may determine.

Punishment for contravention of this Act and rules made thereunder.

6. (*1*) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to which, any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his licence (if any) shall be liable to be revoked by the licensing authority.

(*2*) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to His Majesty.

Certification of films.

[3][7. (*1*) Any [2][Provincial Government] [4]* * * may, by notification in the [5][Official Gazette], constitute as many authorities as it may think fit for the purposes of examining and certifying films as suitable for public exhibition, and declare the area (hereinafter referred to as the 'local area') within which each such authority shall exercise the powers conferred on it by this Act. Where an authority so constituted consists of a Board of two or more persons, not more than one-half of the members thereof shall be persons [6][in the service of the Crown].

(*2*) If any such authority after examination considers that a film is suitable for public exhibition, it shall grant a certificate to that effect to the person applying for the same, and shall cause the film to be marked in the prescribed manner. The certificate of any such authority shall, save as hereinafter provided, be valid throughout the territories in which this Act is in force.

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[1] Subs. by the Cinematograph (Amendment) Act, 1919 (23 of 1919), s. 3, for "the prescribed authority".

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by s. 4 of Act 23 of 1919, for the original section.

[4] The words "authorised in this behalf by the G. G. in C." rep. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for "local official Gazette".

[6] Subs. by the A. O. 1937 for "in the service of Govt."

5. Amendment of section 5 Act II of 1918.— For sub-sections (2) and (2A) of section 5 of the said Act, the following sub-sections shall be substituted, namely:-

"(2) The grant of every licence shall be subject to the conditions that the licensee will not exhibit, or permit to be exhibited, in such place—

(a) any film other than a film which has been certified by the authority as suitable for unregistered public exhibition or for public exhibition restricted to adults, and which, when exhibited, displays the prescribed mark of that Authority, and has not been altered or tampered with in any way since such mark was affixed thereto;

(b) any film which has been certified by the Authority as suitable for public exhibition restricted to adults to any person who is not an adult;

(c) any film contrary to any directions that may be issued from time to time in this behalf by the Central Government under sub-section (2A),

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and such conditions shall be deemed to be inserted in every licence.

(2A) The Central Government may from time to time issue directions to licensees generally, or to any licensee, in particular, for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited."

bition restricted to adults, it shall grant to the person applying for a certificate in respect of the film a 'U' certificate in the former case and an 'A' certificate in the latter case, and shall in either case cause the film to be so marked in the prescribed manner, and any such certificate shall, save as hereinafter provided, be valid throughout the territories to which this Act extends.

(3) If the Authority is of opinion that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall inform the person applying for the certificate of its decision.

(4) Any person applying for a certificate, who is aggrieved by the decision of the authority refusing to grant a certificate or to grant only an 'A' certificate, may, within thirty days from the date of such decision, appeal to the Central Government, and the Central Government may, after such inquiry as it considers necessary, pass such orders thereon as it thinks fit.

Subs. by the A. O. 1937 for " L. G."

[3] Subs. by s. 4 of Act 23 of 1919, for the original section.

[4] The words " authorised in this behalf by the G. G. in C." rep. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for " local official Gazette ".

[6] Subs. by the A. O. 1937 for " in the service of Govt."

(5) If the Central Government rejects an appeal on the ground that a film is neither suitable for unrestricted public exhibition nor for public exhibition restricted to adults, it shall, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in the whole of the territories to which this Act extends.

(6) For the purpose of disposing of any appeal under this section, the Central Government may demand the exhibition of any film before any authority specified in this behalf.

(7) Notwithstanding anything contained in this Act, the Central Government may, of its own motion, by notification in the official Gazette, direct that —

(a) a certified film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends, or

(b) a film in respect of which a 'U' certificate has been granted shall be deemed to be a film in respect of which an 'A' certificate has been granted.

Explanation: The grant of an "A" certificate in respect of any film shall not be deemed to prohibit the exhibition thereof to children below the age of three.

(7). Power of Provincial Government or local authority to suspend exhibition of films in certain cases.—(1) The Provincial Government, in respect of the whole Province or any part thereof, and the District Magistrate or the Commissioner of Police, in respect of the district or town within his jurisdiction, may, if it or he is of opinion that any film, which is being publicly exhibited, is likely to cause a breach of the peace, by order suspend the exhibition of any film, and during such suspension the film shall be deemed to be an uncertified film in the Province or the district or town, as the case may be.

(2) Where an order under sub-section (1) has been issued by a District Magistrate or a Commissioner of Police, a copy thereof, together with a statement of reasons therefor, shall forthwith be forwarded by the person making the same to the Provincial Government, and the Provincial Government may either confirm or decharge the order.

(3) No order made under this section shall remain in force for more than two months, but the Provincial Government may, if it is of opinion that any such order should continue in force for a further period, refer the matter to the Central Government for decision.

(4) On receipt of any reference under sub-section (3), the Central Government may, by notification in the official Gazette, direct that the period of suspension shall be extended by such further period as it thinks fit or that the film shall be deemed to be an uncertified film in the whole or any part of the territories to which this Act extends.

~~(8)~~

8. Penalties. (1) If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Act or the rules made thereunder, or of the conditions and restrictions upon, or subject to, which any licence has been granted under this Act, he shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his licence, if any, shall be liable to be revoked by the licensing authority.

(*3*) (*a*) If the authority is of opinion that a film is not suitable for public exhibition in the local area, it shall inform the person applying for the certificate of its decision, and such person may, within thirty days from the date of such decision, appeal for a reconsideration of the matter by the [1][Provincial Government] by which the authority was constituted.

(*b*) If the [1][Provincial Government] rejects the appeal it shall, by notification in the [2][Official Gazette], direct that the film shall be deemed to be an uncertified film in that local area, and such direction shall have effect notwithstanding the subsequent grant of a certificate in respect of the film by any other such authority.

(*4*) Any such authority may demand the exhibition before itself of any certified film which it has reason to believe is about to be publicly exhibited in its local area, and may by order suspend the certificate of any such film pending the orders of the [1][Provincial Government], and during such suspension the film shall be deemed to be an uncertified film in that area.

(*5*) The District Magistrate, or, in a Presidency-town [3]* * * the Commissioner of Police, may by order suspend the certificate of any film pending the orders of the [1][Provincial Government], and during such suspension the film shall be deemed to be an uncertified film in that district or town.

(*6*) A copy of any order of suspension made under sub-section (*4*) or (*5*), together with a statement of reasons therefor, shall forthwith be forwarded by the authority or the officer making the same to the [1][Provincial Government] by which the authority was constituted or to which the officer is subordinate, as the case may be, and such [1][Provincial Government] may [4]* * * either discharge the order or, by notification in the [2][Official Gazette], direct that the film shall be deemed to be an uncertified film in the whole or any part of the Province.

(*7*) A [1][Provincial Government] may, of its own motion, by notification in the [2][Official Gazette], direct that a certified film shall be deemed to be an uncertified film in the whole or any part of the Province.

(*8*) The exhibition of a film to which any order or direction under clause (*b*) of sub-section (*3*) or sub-section (*4*), (*5*), (*6*) or (*7*) is for the time being applicable shall, in the area to which such order or direction relates, be deemed to be a contravention of the condition mentioned in sub-section (*2*) of section 5.]

Power to make rules.

8. (*1*) The [5][Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "local official Gazette".
[3] The words "or in the town of Rangoon" rep. by the A. O. 1937.
[4] The words "in its discretion" rep. by the A. O. 1937.
[5] Subs. by the A. O. 1937 for "L. G.", which had been subs. for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

(2) In particular and without prejudice to the generality of the foregoing power, rules under this section may provide for—

(*a*) the regulation of cinematograph exhibitions for securing the public safety ;

(*b*) the procedure of the authorities constituted for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto, and the fees to be levied by those authorities ;[1]*

[2][(*bb*) the appointment of officers subordinate to authorities constituted under section 7 and the regulation of the powers and duties of such officers ; and]

(*c*) any other matter which by this Act is to be prescribed.

[3]* * * * * * * * * * * *

(4) All rules made under this Act shall be published in [4]* * the [5][Official Gazette], [6]* * and, on such publication, shall have effect as if enacted in this Act.

Power to exempt.

9. The [7][Provincial Government] may, by order in writing, exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.

THE USURIOUS LOANS ACT, 1918.

ACT NO. X OF 1918.[8]

[22nd March, 1918.]

An Act to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind.

WHEREAS it is expedient to give additional powers to Courts to deal in certain cases with usurious loans of money or in kind ; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Usurious Loans Act, 1918.

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[1] The word "and" rep. by the Cinematograph (Amendment) Act, 1919 (23 of 1919), s. 5.

[2] Cl. (*bb*) ins. by s. 5, *ibid.*

[3] Sub-section (3) rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[4] The words "Gazette of India or" rep. by s. 2 and Sch. I, *ibid.*

[5] Subs. by the A. O. 1937 for "local official Gazette".

[6] The words "as the case may be" rep. by Act 38 of 1920, s. 2 and Sch. I.

[7] Subs. by the A. O. 1937 for "L. G."

[8] For Statement of Objects and Reasons, *see* Gazette of India, 1917, Pt. V, p. 86 ; for Report of Select Committee, *see ibid.*, 1918, Pt. V, p. 47 ; and for Proceedings in Council, *see ibid.*, 1917, Pt. VI, pp. 714, 815 and *ibid.*, 1918, Pt. VI, pp. 94 and 707.

This Act has been declared to be in force in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2.

It has been amended in the U. P. by U. P. Act 23 of 1934, in the Punjab by Punjab Act 7 of 1934, in the C. P. by C. P. Act 11 of 1934, and in Madras by Madras Act 8 of 1937.

(2) The exhibition of a film contrary to any order or direction under sub-section (5) or sub-section (7) of section 6 or section 7 shall, in the area to which such order or direction relates, be deemed to be a contravention of the conditions mentioned in sub-section (2) of section 5 and shall be punishable as provided in this section.
(3) If any person is convicted of an offence punishable under this Act committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government.

9. Power to make rules.— (1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.
(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—
(a) the manner in which the authority shall be constituted;
(b) the delegation of any of the powers of the authority to such person or persons as the authority may nominate in this behalf.
(c) the procedure of the authority for examining and certifying films as suitable for public exhibition, and all matters ancillary thereto and the fees to be levied by such authority;
(d) the appointment of officers subordinate to the authority and the regulation of the powers and duties of such officers;
(e) the conditions subject to which any certificate may be granted under this Act or the circumstances in which any certificate shall be refused;
(f) the manner in which any appeal under this Act may be preferred;
(g) Any other matter which by this Act is to be prescribed.

(3) The Provincial Government may make rules to provide forthe regulation of cinematograph exhibitions for securing the public safety.

(4) All rules made under this Act shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.
(5) All rules made by the Central Government under this Act shall be laid before Parliament as soon as may be after they are made."
10. Power to give directions.—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

11. Power to exempt. — The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or of any rule made thereunder.

(2) It extends to [1][~~all~~ the ~~Provinces~~ whole of India] except Part B States

(3) The [3][~~Provincial~~ State Government] may, by notification in the [4][Official Gazette], direct that it shall not apply to any area, class of persons, or class of transactions which it may specify in its notification.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(1) "Interest" means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(2) "Loan" means a loan whether of money or in kind and includes any transaction which is, in the opinion of the Court, in substance a loan.

(3) "Suit to which this Act applies" means any suit—

(a) for the recovery of a loan made after the commencement of this Act ; or

(b) for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made, after the commencement of this Act, in respect of any loan made either before or after the commencement of this Act ; [5][or

(c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.]

XXVIII of 1855. Re-opening of transactions. **3.** (1) Notwithstanding anything in the Usury Laws Repeal Act, 1855, where, in any suit to which this Act applies, whether heard *ex parte* or otherwise, the Court has reason to believe,—

~~(a) that the interest is excessive ; and~~

~~(b)~~ that the transaction was, as between the parties thereto, substantially unfair,

the Court may exercise ~~all~~ one or ~~any~~ more of the following powers, namely, ~~may~~,—

(i) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest ;

(ii) notwithstanding any agreement, purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;

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[1] Subs. by the A. O. 1948 for "the whole of British India".
[2] The words "including British Baluchistan" rep. by the A. O. 1948.
[3] Subs. by the A. O. 1937 for "L. G."
[4] Subs. by the A. O. 1937 for "local official Gazette".
[5] Ins. by the Usurious Loans (Amendment) Act, 1926 (28 of 1926), s. 2.

(*iii*) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just:

Provided that, in the exercise of these powers, the Court shall not—

(*i*) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than [1][twelve] years from the date of the transaction ;

(*ii*) do anything which affects any decree of a Court.

Explanation II.—In the case of a suit brought on a series of transactions the expression " the transaction " means, for the purposes of proviso (*i*), the first of such transactions.

(*2*) (*a*) In this section " excessive " means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan.

(*b*) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged, the periods at which it is calculated and the total advantage which may reasonably be taken to have been expected from the transaction.

(*c*) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.

(*d*) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities or supposed necessities of the debtor at the time of the loan so far as the same were known, or must be taken to have been known, to the creditor.

Explanation.—Interest may of itself be sufficient evidence that the transaction was substantially unfair.

(*3*) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforce-

M. A. VIII/37

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[1] Subs. by the Usurious Loans (Amendment) Act, 1926 (28 of 1926), s. 3, for " six ".

The Explanation to the sub-section shall be renumbered as Explanation II and the following shall be inserted as Explanation I, namely:-

"Explanation I.- If the interest is excessive, the Court shall presume that the transaction was substantially unfair; but such presumption may be rebutted by proof of special circumstances justifying the rate of interest." M.A. VIII/37.

To clause (b) of sub-section (2), the following proviso shall be added, namely:-

"Provided that in the case of loans to agriculturalists, if compound interest is charged, the Court shall presume that the interest is excessive."

IV of 18

Sec.2.- In sub-sec. (1) for clause (a) substitute--

"(a) the expression 'Commonwealth Citizen' has the same meaning as in sec.1 of the British Nationality Act, 1948, but shall include any association incorporated in any part of the Commonwealth, including India;"

ment of any agreement or security in respect of a loan [1][or for the redemption of any such security].

(*4*) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bonâ fide,* and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word "notice" shall have the same meaning as is ascribed to it in section 4 of the Transfer of Property Act, 1882. IV of 1882.

(*5*) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

Insolvency proceedings. **4.** On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies.

THE INDIAN COMPANIES (FOREIGN INTERESTS) ACT, 1918.

ACT No. XX OF 1918.[2]

[26th September, 1918.]

An Act to take power to prohibit the alteration, except with the sanction of the ~~Governor General in~~ Central Govt. Council, or articles of association which restrict foreign interests in certain Companies, and to provide for other purposes connected therewith.

WHEREAS it is expedient to take power to prohibit the alteration, except with the sanction of the ~~Governor General in Council~~ Central Govt., of articles of association which restrict foreign interests in certain companies, and to provide for other purposes connected therewith; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Companies (Foreign Interests) Act, 1918.

Definitions. **2.** (*1*) In this Act—

(*a*) the expression "British subject" has the same meaning as in section 27 of the British Nationality and Status of Aliens Act, 1914, but shall include any person who holds a certificate of naturalization as a British subject granted under any

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[1] Ins. by the Usurious Loans (Amendment) Act, 1926 (28 of 1926), s. 3.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1918, Pt. V, p. 74; and for Proceedings in Council, *see ibid.,* 1918, Pt. VI, pp. 955 and 1140.

[1][Act of the Central Legislature] for the time being in force, and any association incorporated in any part of His Majesty's dominions: Provided that the said expression shall, for the purposes of this Act, be deemed to apply to any subject of a State in India ;

(*b*) the expression "restrictive provision" means any provision in the articles of association of a company which, in the opinion of the [2][Central Government], is designed to restrict or limit or has the effect of restricting or limiting the share or shares or interest which may be held, or the rights, powers or authority which may be conferred upon or exercised by or on behalf of persons other than ~~British subjects~~ commonwealth citizens in the company, or in respect of the control, management or direction of the affairs thereof.

(*2*) All words and expressions used in this Act and defined in the Indian Companies Act, 1913, shall be deemed to have the meanings respectively attributed to them by that Act. VII of 1913.

Application of Act.

3. This Act shall apply to such companies as the [2][Central Government] may, by notification in the [3][Official Gazette], declare to be companies with restrictive provisions, and any such notification shall specify the restrictive provisions.

Alterations in restrictive provisions and winding up.

4. So long as a notification issued under section 3 is in force in respect of any company, notwithstanding anything to the contrary in any other Act—

(*1*) no alteration of the articles of association of the company affecting either directly or indirectly any restrictive provision shall be of any effect until it has received the consent in writing of the [2][Central Government] ;

(*2*) a resolution for the voluntary winding up of the company shall be of no effect unless the [2][Central Government] authorises or ratifies it by a written consent ;

(*3*) any Court which has jurisdiction to wind up the company may in its discretion refuse to make a winding up order. In the exercise of its discretion, the Court shall be guided by the consideration whether the winding up is *bonâ fide* with a view to the discontinuance of the undertaking, or is with a view to continuing the undertaking freed either wholly or in part from any restrictive provision ;

(*4*) the [2][Central Government] in giving consent, or the Court in making a winding up order, as the case may be, may impose such terms or conditions for giving effect to the purposes of this Act as [4][it] thinks fit.

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[1] Subs. by the A. O. 1937 for "Act of the G. G. in C."

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "Gazette of India".

[4] Subs. by the A. O. 1937 for "he or it".

THE BRONZE COIN (LEGAL TENDER) ACT, 1918.

ACT No. XXII OF 1918.[1]

[*26th September, 1918.*]

An Act to provide that certain bronze coins coined outside [2][~~the Provinces~~] shall be legal tender in [2][~~the Provinces~~] Part A States & Part C States

WHEREAS it is expedient to provide that certain bronze coins coined outside [2][the Provinces] shall be legal tender in [2][~~the Provinces~~] Part A States & Part C States; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bronze Coin (Legal Tender) Act, 1918.

Power to declare certain bronze coins coined outside the Provinces to be legal tender.

2. (*1*) Where bronze coins of any of the denominations specified in section 8 of the Indian Coinage Act, 1906, (III of 1906.) are coined outside [2][the Pro~~vinces~~] at the request of the [3][Central Government], and the [3][Central Government] is satisfied that such coins are in accordance with the requirements of section 9 and of any notification for the time being in force under section 10 of the said Act, [4][it] may, by notification in the [5][Official Gazette], direct the issue of any such coins, and thereafter any such coins shall be legal tender in payment or on account in the same way and to the same extent as if they were coins referred to in section 14 of the said Act, and the provisions of the said Act shall apply accordingly.

(*2*) Every coin which is declared to be legal tender by sub-section (*1*) shall be deemed to be ~~Queen's~~ Indian coin within the meaning of section 230 of the Indian Penal Code. (Act XLV of 1860.)

THE COTTON CLOTH ACT, 1918.

ACT No. XXIII OF 1918.[6]

[*26th September, 1918.*]

An Act to take powers to provide for the cheap supply of cotton cloth to the poorer classes of the community.

WHEREAS it is expedient to take powers for the purpose of encouraging or maintaining the supply, at reasonable rates, to the poorer classes of the community, of cotton cloth manufactured in this country; It is hereby enacted as follows:—

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1918, Pt. V, p. 82; and for Proceedings in Council, *see ibid.*, 1918, Pt. VI, pp. 1001 and 1140. The Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "he".

[5] Subs. by the A. O. 1937 for "Gazette of India".

[6] For Statement of Objects and Reasons, *see* Gazette of India, 1918, Pt. V, p. 58; for Report of Select Committee, *see ibid.*, 1918, Pt. V, p. 77; and for Proceedings in Council, *see ibid.*, 1918, Pt. VI, pp. 754, 953, 1000 and 1147. The Act has been declared to be in force in the Khondmals District by the Khondmals Law Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

Short title.

1(1) This Act may be called the Cotton Cloth Act, 1918.

(2) It extends to the whole of India except Part B States

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Controller" means a Controller appointed under this Act;

(*b*) "cotton cloth" means cotton cloth manufactured in this country; and

(*c*) "standard cloth" means any kind of cotton cloth which a Controller may, from time to time, declare to be standard cloth.

Power to appoint Controllers.

3. The [1][~~Provincial~~ State Government] may, by notification[2] in the [3][Official Gazette], appoint one or more persons as [4][it] may think fit to be Controllers for the purposes of this Act, and shall specify in any such notification the area in which any Controller so appointed shall exercise his powers.

Powers of the Controller.

4. (*1*) Whenever it appears to a Controller that such a course is necessary or expedient for the purpose of encouraging or maintaining the supply of standard cloth, at reasonable rates to the poorer classes of the community, he may (subject to this Act and the rules made thereunder and to the control of the [1][~~Provincial~~ State Government]) make general or special orders regulating or giving directions within the area in which he is empowered, with respect to the manufacture, transport, distribution and sale or purchase of, or other dealings in, cotton cloth.

(*2*) Without prejudice to the generality of the foregoing power, orders may be made by a Controller—

(*a*) declaring and defining the classes of standard cloth;

(*b*) prescribing distinctive indications which shall be woven into, impressed or otherwise displayed upon, different classes of standard cloth;

(*c*) requiring any person, who ordinarily manufactures cotton cloth, to manufacture, or provide for the manufacture of, standard cloth in such quantity, of such quality and by such date as the Controller may direct; and

(*d*) fixing the prices to be paid to the manufacturer for standard cloth or for any particular class of standard cloth, and providing for the payment thereof on delivery:

Provided that in fixing prices the Controller shall have regard to the cost of production and to the allowance of a reasonable profit, without necessarily taking into consideration the market-price, and if the Controller is satisfied that the manufacturer has incurred actual loss arising out of forward contracts entered into before the commencement of this Act, and that such loss is immediately attributable to an order under this Act, he may take such loss into account:

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] For a notification issued by the G. G. in C. under this section, *see* Gazette of India, 1918, Pt. I, p. 1558.

[3] Subs. by the A. O. 1937 for "Gazette of India".

[4] Subs. by the A. O. 1937 for "he".

Provided further that the Controller may fix different prices in the case of different localities or, if special reasons exist, in respect of different manufacturers in the same locality.

Appointment of Advisory Committees.

5. Where a Controller is appointed in exercise of the power conferred by section 3, the [1][~~Provincial~~ State Government] shall appoint a Committee consisting of such number of persons having knowledge of the cotton or cotton cloth trade as [2][it] thinks fit to assist the Controller with their advice in the performance of his duties. Before a Controller issues any order declaring and defining the classes of standard cloth or fixing the prices to be paid to the manufacturer, he shall consult the Committee, and he may consult the Committee on any other matter connected with his duties:

Provided that, if the opinion of the majority of members of the Committee who are present at any meeting is adverse to the issue of any order, the Controller shall, if he does not accept the Committee's advice, refer the matter for the decision of the [1][~~Provincial~~ State Government].

Manufacture and delivery of standard cloth.

6. Where, by an order made in the exercise of powers conferred by section 4, the Controller has directed a manufacturer to manufacture, or provide for the manufacture of, standard cloth and has fixed the price therefor, the manufacturer shall deliver the same at such time and place and in such manner as the Controller may specify from time to time, and the Controller shall pay or cause to be paid to the manufacturer the said price, together with the freight, if any, actually paid by the manufacturer.

Delegation of powers.

7. Subject to the control of the [1][~~Provincial~~ State Government], a Controller may, from time to time by order in writing, delegate all or any of his powers subject to such conditions and restrictions as may be prescribed therein.

Penalty for disobedience of orders under section 4.

8. If any person acts in contravention of, or without reasonable cause, fails to comply with, the provisions of any order made under section 4, or counterfeits upon any cloth a distinctive indication prescribed by the Controller, such person shall be punishable with imprisonment which may extend to six months, or with fine or with both.

Power to fix prices of

9. (*1*) The [3][~~Provincial~~ State Government] shall, if standard cloth is sold in the ~~Province~~ State, by order in writing which shall be notified in the [4][Official standard cloth.

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[1] Subs. by the A. O., 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "he".
[3] Subs. by the A. O. 1937 for "L. G."
[4] Subs. by the A. O. 1937 for "local official Gazette".

Gazette], fix the price at which alone standard cloth or any class of standard cloth shall be sold to the public.

(2) Orders may be made fixing different prices for different localities or for different methods of sale.

State

(3) Every such order shall be published in such manner as the [1][~~Provincial Government~~] may consider to be best adapted for bringing the prices so fixed to the notice of the poorer classes.

Limitation of sale of standard cloth.

10. (1) No person shall sell or keep, offer or expose for sale to the public, standard cloth otherwise than at such price as may be fixed by the State [1][~~Provincial~~ Government] and in accordance with the terms and conditions of a licence issued in this behalf.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to six months, or with fine or with both.

Grant of licences for sale of standard cloth.

11. A licence for the sale of standard cloth shall be granted by such authority, in such form and subject to such conditions as the [1][Provincial Government] may prescribe by rules made under this Act. State

Rule-making power.

12. (1) The State [2][~~Provincial~~ Government] may make rules—

(a) prescribing the powers and duties of the Controller,

(b) prescribing the manner in which the Controller's orders shall be published or served, as the case may be, and

(c) generally giving effect to the provisions of this Act.

(2) The State [1][~~Provincial~~ Government] shall, if standard cloth is sold in the State ~~Province~~, make rules prescribing the authority by which, the form in which and the conditions under which, any licence or class of licences for the sale of standard cloth shall be granted.

(3) Rules made under this Act shall be published in [3]* * * the [4][Official Gazette], [5]* * * and on such publication shall have effect as if enacted in this Act.

Protection for acts done under the Act.

13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Powers of Act to be cumulative.

14. All powers given by this Act shall be in addition to and not in derogation of any other powers conferred by or under any enactment, and all such powers may be exercised in the same manner and by the same authority as if this Act had not been made.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] The words "the Gazette of India or" rep. by the A. O. 1937.
[4] Subs. by the A. O. 1937 for "local official Gazette".
[5] The words "as the case may be" rep. by the A. O. 1937.

THE LOCAL AUTHORITIES PENSIONS AND GRATUITIES ACT, 1919.

ACT NO. I OF 1919.[1]

[26th February, 1919].

An Act to extend the powers of local authorities in regard to the granting of pensions and gratuities.

WHEREAS it is expedient to extend the powers of local authorities in regard to the granting of pensions and gratuities; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Local Authorities Pensions and Gratuities Act, 1919.

(*2*) It extends to ²[~~all~~ the whole ~~Provinces~~ of India], ~~including the Sonthal Parganas~~.

Definitions.

2. In this Act "officer" means any person who has undertaken ³[service under the Crown] and who immediately prior to undertaking such service, was paid and employed solely by a local authority and, but for undertaking such service, would in the ordinary course have continued in such employment; ⁴[and the "appropriate Government" means, in relation to cantonment authorities and port authorities in major ports, the Central Government, and in relation to other authorities, the ~~Provincial~~ State Government].

Power to grant extra-ordinary pensions and gratuities.

3. Notwithstanding anything contained in any enactment or in any rule made thereunder regulating the powers of local authorities, and without prejudice to any powers conferred by or under any such enactment, a local authority may grant a pension or gratuity to any officer thereof who may, since the 4th day of August, 1914, have been wounded or otherwise incapacitated in ³[service under the Crown], and to the widow or child of any such officer who may have died in consequence of injuries received or illness contracted since the 4th day of August, 1914, in the course of such service.

Provision as to pensions and gratuities.

4. (*1*) Such pension or gratuity may be granted in addition to any pension or gratuity payable to the officer or his wife or child, as the case may be, under any general or special orders ~~of~~ His Majesty in Council or of ⁵[the Central Government or any ~~Provincial~~ State Government], but shall not, save with the sanction of the ⁶[appropriate Government].

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 18; and for Proceedings in Council, *see ibid.*, 1919, Pt. VI, pp. 144, 145 and 197.

[2] Subs. by the A. O. 1948 for "the whole of British India".

[3] Subs. by the A. O. 1937 for "the service of Govt."

[4] Ins. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for "the G. G. in C."

[6] Subs. by the A. O. 1937 for "L. G." which had been subs. for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

exceed the amount of the pension or gratuity to which the officer or his wife or child would have been entitled under any such orders if his employment by the local authority had been service for the same time and on the same pay [1][under the ~~Crown~~]. govt.

(2) Any pension granted under this Act may be made to take effect from such date subsequent to the 4th day of August, 1914, and subject to such conditions as the local authority may think fit.

Procedure.

5. Subject to the provisions of this Act, the decision of a local authority to grant a pension or gratuity thereunder shall be made in such manner and shall be subject to such sanction as may be prescribed by any enactment or rule regulating the grant by such local authority of pensions and gratuities:

Provided that in every case the sanction of the [2][appropriate Government] shall be necessary.

THE PUNJAB COURTS (SUPPLEMENTING) ACT, 1919.

ACT NO. IX OF 1919.[3]

[19th March, 1919.]

An Act to supplement the Punjab Courts Act, 1918.

WHEREAS it is expedient to supplement the Punjab Courts Act, 1918; It is hereby enacted as follows:—

Pun. Act, VI of 1918.

Short title and commencement.

1. (1) This Act may be called the Punjab Courts (Supplementing) Act, 1919.

(2) It shall come into force on such date[4] as may be notified by the [5][Central Government] in this behalf.

Provisions regarding proceedings pending in the Chief Court of the Punjab.

2. All suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever, whether civil or criminal, pending in the Chief Court of the Punjab, shall be continued and concluded in the [6][High Court of East Punjab] as if the same had been instituted in such High Court; and the [6][High Court of East Punjab] shall exercise the same jurisdiction in relation to all such proceedings as if the same had been instituted and continued in such High Court.

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[1] Subs. by the A. O. 1937 for "under Govt."

[2] Subs. by the A. O. 1937 for "L. G."

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 65; and for Proceedings in Council, *see ibid.*, 1919, Pt. VI, p. 827.

[4] The 1st April, 1919, *see* Gazette of India, 1919, Pt. I, p. 710.

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1947, para. 5, for "High Court of Judicature at Lahore", with effect from 15th August, 1947.

THE POISONS ACT, 1919.

ACT NO. XII OF 1919.[1]

[*3rd September, 1919.*]

An Act to consolidate and amend the law regulating the importation, possession and sale of poisons [2]* *

WHEREAS it is expedient to consolidate and amend the law regulating the importation, possession and sale of poisons [2]* *; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Poisons Act, 1919.

(*2*) It extends to [3][~~all~~ the ~~Provinces~~ whole of India], ~~including [4]* * the Sonthal Parganas.~~

Power of the Provincial Government to regulate possession for sale and sale of any poison.

2. (*1*) [5]* * * * The [6][~~Provincial~~ State Government] may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the grant of licences to possess any specified poison for sale, wholesale or retail, and fixing of the fee (if any) to be charged for such licences;

(*b*) the classes of persons to whom alone such licences may be granted;

(*c*) the classes of persons to whom alone any such poison may be sold;

(*d*) the maximum quantity of any such poison which may be sold to any one person;

(*e*) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;

(*f*) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and

(*g*) the inspection and examination of any such poison when possessed for sale by any such vendor.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 22, and for Proceedings in Council, *see ibid.*, 1919, Pt. VI, pp. 170 and 872.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] The words "throughout British India" rep. by the A. O. 1948.

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "British Baluchistan and" rep. by the A. O. 1948.

[5] The words "Subject to the control of the G. G. in C." rep. by the A. O. 1937.

[6] Subs. by the A. O. 1937 for "L. G."

Power to prohibit importation into the Provinces of any poison except under licence.

3. The [1][Central Government] may, by notification in the [2][Official Gazette], prohibit, except under and in accordance with the conditions of a licence, the importation into [3][the ~~Provinces~~ States] [4][across any customs frontier[5] defined by the Central Government] of any specified poison, and may by rule regulate the grant of licences.

Power to regulate possession of any poison in certain areas.

4. (*1*) The [6][~~Provincial~~ State Government] [7]* * * * may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(*2*) In making any rule under sub-section (*1*), the [6][~~Provincial~~ State Government] may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

Presumption as to specified poisons.

5. Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

Penalty for unlawful importation, etc.

6. (*1*) Whoever—

(*a*) commits a breach of any rule made under section 2, or

(*b*) imports [8]* * * without a licence [4][into [3][the ~~Provinces~~ States] across a customs frontier[5] defined by the Central Government] any poison the importation of which is for the time being restricted under section 3, or

(*c*) breaks any condition of a licence for the importation of any poison granted to him under section 3,

shall be punishable,—

(*i*) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(*ii*) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1937 for "Gazette of India".

[3] Subs. by the A. O. 1948 for "British India".

[4] Ins. by the A. O. 1937.

[5] For definition of the customs frontiers of British India, *see* Gazette of India, Extraordinary, dated 1st April, 1937, p. 433.

[6] Subs. by the A. O. 1937 for "L. G."

[7] The words "subject to the control of the G. G. in C." were rep. by the A. O. 1937. The words "subject to the control" had been subs. for "with the previous sanction" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[8] The words "into British India" rep. by the A. O. 1937.

(*2*) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

Power to issue search warrants.

7. (*1*) The District Magistrate, the Sub-divisional Magistrate and, in a Presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.

V of 1898.

(*2*) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

Rules.

8. (*1*) In addition to any other power to make rules hereinbefore conferred [1]* * * the [2][~~Provincial~~ State Government] may make rules generally to carry out the purposes and objects of this Act [3][except section 3].

(*2*) Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made by the [4][Central Government] or by the [2][~~Provincial~~ State Government] under this Act shall be published in the [5][Official Gazette] and on such publication shall have effect as if enacted in this Act.

Savings.

9. (*1*) Nothing in this Act or in any licence granted or rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.

(*2*) Notwithstanding anything hereinbefore contained, the [2][~~Provincial~~ State Government] may [6]* * * * by general or special order declare that all or any of the provisions of this Act [3][except section 3] shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.

(*3*) The authority on which any power to make rules under this Act is conferred may, by general or special order, either wholly or partially—

(*a*) exempt from the operation of any such rules, or

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[1] The words "and subject to the control of the G. G. in C." were rep. by the A. O. 1937. The word "and" had been subs. for the words "the G. G. in C. or" by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Ins. by the A. O. 1937.

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] Subs. by para. 4 of the A. O. 1937 for "Gazette of India or the local official Gazette, as the case may be". Strictly the substitution would read "Official Gazette or the Official Gazette, as the case may be" but the last nine words have been omitted as being obviously redundant.

[6] The words "in its discretion" rep. by the A. O. 1937.

(*b*) exclude from the scope of the exemption provided by sub-section (*1*),

any person or class of persons either generally or in respect of any poisons specified in the order.

10. *[Repeal of Act I of 1904.] Rep. by the Repealing Act, 1927 (XII of 1927).*

THE CALCUTTA HIGH COURT (JURISDICTIONAL LIMITS) ACT, 1919.

ACT NO. XV OF 1919.[1]

[17th September, 1919.]

An Act to declare and prescribe the limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal.

WHEREAS clause 11 of the Letters Patent for the High Court of Judicature at Fort William in Bengal, dated the 28th December, 1865, provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by competent legislative authority for India;

AND WHEREAS it is expedient so to declare and prescribe the local limits of the ordinary civil jurisdiction of the said High Court;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta High Court (Jurisdictional Limits) Act, 1919.

Limits of ordinary original civil jurisdiction.

2. The ordinary original civil jurisdiction of the High Court of Judicature at Fort Willian in Bengal shall be exercised within the limits set out in the Schedule:

Provided that nothing in this Act shall affect any suit or other legal proceeding pending in any Court at the date of the commencement of this Act.

THE SCHEDULE.

(*See section 2.*)

1. The limits within which the ordinary original civil jurisdiction of the High Court shall be exercised are as follows:—

North.—A line commencing on the western side of the river Hooghly at a point where the straight line joining reference pillar No. I (in a compound on the river side of the Ghusri Cotton Mill, Howrah) and reference pillar No. II (near the south-western end of Chitpur Toll Bridge) meets the western water-line of the river Hooghly, and thence along the said line to the point where it meets the eastern water-line of the river Hooghly near the south bank of the opening of Circular Canal; thence along the water-line of the south bank of Circular Canal passing under the Chitpur Toll Bridge, the Chitpur or Baghbazar Bridge to boundary pillar A on the eastern side of the southern pile of Barrackpore Bridge.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Part V, p. 74; and for Proceedings in Council, *see ibid.*, Part VI, pp. 876 and 1101.

East.—A line commencing from the said boundary pillar A following the eastern edge of the steps of the bridge to a point near the south-eastern corner of the immediate approach to the bridge marked by reference pillar III, which is on the boundary; thence by a straight line to boundary pillar B on the south-eastern corner of the junction of Cornwallis Street and Galif Street (now marked with a Public Works Department stone); thence along the eastern side and the eastern side of the eastern pavement of Cornwallis Street in a series of regular links joining points marked by posts 1-3 to boundary pillar C at the north corner of the junction of Shambazar Street with Cornwallis Street; thence by a straight line to boundary pillar D on the solid south corner of the said junction; thence in an approximately straight line along the solid eastern side of Upper Circular Road marked by posts 4-9; thence eastward following the corner round to boundary pillar E on the north corner of the junction of the unnamed road (which runs into Jadu Nath Mitra Lane) with Upper Circular Road; and thence by a straight line to boundary pillar F at the solid south corner of the junction of Jadu Nath Mitra Lane with Upper Circular Road; thence by posts 10-13 to boundary pillar G on the solid south corner of the junction of Ultadingi Road with Upper Circular Road; thence along the solid south side of Ultadingi Road in a series of continuous and approximately straight lines joining points marked by posts 14-16 to boundary pillar H at the solid western corner of the junction of Ultadingi Road and Gauribere Lane; thence by the solid western side of Gauribere Lane marked by posts 17-21; thence by a straight line crossing the road diagonally to boundary pillar I on the solid south-eastern corner of the junction of Gauribere Lane and Ultadingi Junction Lane; thence along the solid eastern side of Ultadingi Junction Lane marked by posts 22-24 to boundary pillar J on the solid eastern corner of the junction of Ultadingi Junction Lane with Halsibagan Road; thence by a straight line to post 25 at the solid western corner of the said junction; thence along the solid north side of Halsibagan Road marked by post 26 to boundary pillar K on the north side of Halsibagan Road directly opposite the solid eastern side of Upper Circular Road south of it; thence by a straight line to post 27 at the solid south corner of the junction of Halsibagan Road with Upper Circular Road; thence by the solid eastern side of Upper Circular Road marked by posts 28-34 to post 35; thence turning east to boundary pillar L on the north side of Maniktola Road;

thence by a straight line to post 36 at the south corner of the junction of Maniktola Road with Upper Circular Road at the north-western corner of the garden of Kali Pada Barik ; thence along the eastern side of the lane on the eastern side of the raised platform road and marked by posts 37-49 to boundary pillar M at the solid north corner of the junction of Gas Street and Upper Circular Road ; thence by a straight line to boundary pillar N at the solid south corner of the said junction ; thence keeping again to the eastern side of the lane on the eastern side of the raised platform road along a line marked by posts 50-61 excluding the recently made Ladies' Park to boundary pillar O near the north pillar of the north entrance to North Station, Sealdah ; thence by a straight line to boundary pillar P at the south corner of that entrance ; thence by the comparatively straight lines from pillar to pillar connecting boundary pillars P, Q, R, S, and T adjacent to the pillars forming the corners of the various approaches to Sealdah Station ; thence along the solid eastern side of Lower Circular Road marked by posts 62-64 to pillar 65 ; thence turning west to boundary pillar U at the north-western corner of the out-patients' department of the Campbell Hospital ; thence by a straight line marked by posts 66-68 to boundary pillar V on the corner of the platform to the right of the north entrance to the Calcutta Corporation Central Stores ; thence by post 69 turning east to post 70 ; thence by posts 71-76, boundary pillars W and X at the solid corners of the southern junction of Police Hospital Road with Lower Circular Road ; thence by posts 77-80, to boundary pillars Y and Z on the solid corners of the junction of Beniapukur Lane with Lower Circular Road, by posts 81-86 to boundary pillars A_1 and B_1, at the solid corners of the junction of Nonapukur or Bijli Road and Lower Circular Road, posts 87, 88, to boundary pillar C_1, near the south-western corner of the Circular Road burial ground ; thence by a straight line to boundary pillar D_1, on the other side of the tramway lines ; thence post 89 eastward to post 90 ; thence to boundary pillars E_1, and F_1, at the solid corners of the junction of Karaya Bazar Road and Lower Circular Road, posts 91, 92 to boundary pillar G_1, opposite to Theatre Road, posts 93, 94, to boundary pillar H_1, a few feet south of the point directly opposite the junction of Auckland Place and Lower Circular Road, and following the curve of the road by posts 95 and 96 to reference pillar IV (which is on the boundary) on the eastern side of the junction of Beck Bagan Lane with Lower Circular Road.

South.—A line commencing from the said reference pillar IV in a straight line to boundary pillar I_1, on the western corner of the junction of Beck Bagan Lane with Lower Circular Road ; thence along the solid south side of Lower Circular Road to boundary pillar J_1, and K_1, at the solid corners of the junction of Ballyganj Circular Road and Lower Circular Road ; thence by the solid south side of Lower Circular Road marked by posts 97, 98, boundary pillars L_1, M_1, at the solid corners of the junction of Lansdowne Road with Lower Circular Road, post 99 southward to post

100 westward to post 101, northward to post 102 and westward to post 103, boundary pillars N_1 and O_1 at the solid corners of the junction of Woodburn Road with Lower Circular Road, posts 104, 105, boundary pillars P_1 and Q_1 at the solid corners of the junction of Lee Road with Lower Circular Road; thence by the straight line links but broken boundary line formed by posts 106-113, to boundary pillar R_1, on the south-eastern corner of the junction of Chowringhee with Lower Circular Road; thence by an oblique straight line to boundary pillar S_1 on the south-western corner of the said junction (near a stone marked F. W. B.-26); thence by a line representing the present limits of the holdings on the south of Circular Road and marked by posts 114-116, boundary pillars T_1 and U_1 at the solid corners of the junction of Haris Chandra Mukherji Road and Lower Circular Road, posts 117-121; thence to boundary pillar V_1, near the north corner of the junction of Bhowanipore Road and Lower Circular Road; thence following the curve of the corner and the eastern side of Bhowanipore Road and the surplus lands attached thereto by a series of straight line links joining points marked by posts 122-124, boundary pillars W_1, and X_1, at the junction of Shambhunath Pandit Street and Bhowanipore Road, posts 125-128 turning eastward to boundary pillar Y_1 on the north side of Sankaripara Road, posts 129, 130 to boundary pillars Z_1 and A_2 across the entrance of Ketrapati Road into Bhowanipore Road; thence by posts 131, 132 to boundary pillar B_2 on the north-eastern side of Alipore Bridge; thence along a straight line joining the said boundary pillar B_2 with subsidiary reference pillar VII on the south-eastern side of the said bridge to a point where that straight line meets the water-line of Tolly's Nala; thence along the water-line of Tolly's Nala to the north-eastern corner of the District Magistrate's compound, near which is boundary pillar C_2; thence along the irregular northern boundary of the Magistrate's compound marked by posts 133-141 to boundary pillar D_2 at the south corner of the entrance to the Civil Surgeon's house from Thackeray Road; thence southward along the western boundary of the Magistrate's compound by posts 142-145 and along the southern boundary of that compound marked by posts 147, 148 to boundary pillar E_2 on the bank of Tolly's Nala; thence continuing the straight line from post 148 to boundary pillar E_2 till it meets the water-line of Tolly's Nala; thence along the water-line of Tolly's Nala to a point in a direct line with the north side of the masonry drain running outside the Jail Garden near which is boundary pillar F_2; thence along the north side of the said drain in a straight line across Motee Jheel to post 149 against the boundary of the compound of the Magistrate's Court; thence northward along that boundary to post 150 and westward to post 151 and northward again along the boundary of the Army Clothing Agency to post 152; thence westward on the south side of the lane to boundary pillar G_2 at the north-western corner of the Police Hospital compound; thence along the wall of the Alipore Central Jail facing Belvedere Road and marked by pillars 153-157 to the north-western corner of the junction of Belvedere Road and Jail Lane following the corner eastward to post 158 and continuing along the south side of Jail

Lane to post 159 ; thence by a straight line to boundary pillar H_2 at the acute corner of the junction of Reformatory Street with Jail Lane ; thence to boundary pillar I_2 on the north-western side of Alipore Bridge ; thence to boundary pillar J_2 on the north-eastern side of the said bridge ; thence by the solid south-western and western side of Bhowanipore Road marked by posts 160-167 ; thence following the western corner of the junction of Bhowanipore Road and Lower Circular Road to boundary pillar K_2 ; thence along the solid south side of Lower Circular Road following the Sweep of the railings and marked by posts 168-172 to boundary pillar L_2 on Lower Circular Road and east of its junction with Belvedere Road ; thence following the natural bends of the corner marked by posts 173 and 174 to boundary pillar M_2 on the eastern side of Belvedere Road ; thence along the eastern side of Belvedere Road now indicated by wooden railings and marked by post 175 to boundary pillar N_2 on the north-eastern side of Zeerut Bridge ; thence along the railings of the footpath on the eastern side of the bridge to boundary pillar O_2 near its south-eastern end ; thence along a bent line following the shape of the bridge and marked by posts 176, 177 to post 178 on the eastern side of the south extremity of the immediate approach to the bridge ; thence by a straight line to boundary pillar P_2 on the western side of the said extremity ; thence turning north along the railings of the footpath on the western side of the bridge ; till it meets the water-line underneath the bridge, thence along the water-line of the south or Alipore bank of Tolly's Nala trending northwards under Hastings Bridge, to a point where a straight line joining reference pillar V (near the south-western end of Hastings Bridge), to reference pillar VI (on the Howrah side of the river in a line with the northern wall of the Bengal-Nagpur Railway Goods Yard) meets the water-line of the south bank of the bend of the Hooghly River, near the western side of the opening of Tolly's Nala ; thence continuing the said straight line till that said straight line meets the water-line of the Howrah side of the river Hooghly.

West.—A line commencing from the point last defined along the water-line of the Howrah side of the River Hooghly to the western extremity of the northern boundary.

2. (*a*) When the expression "water-line" is used in this Schedule all *pucca ghâts* and other objects permanently attached to the bank and in contact with the water shall be deemed to appertain to the area to which the land on that bank appertains, and the water in contact with such objects shall be deemed to appertain to the other side of the boundary. In the places in the Schedule where the boundary is thus described the boundary line shall be the moving edge of the water wherever it may be at any time. In the case of bridges, however, the supporting pile in contact with the bank only shall be deemed to be permanently attached to the bank and the boundary line across the bridge to be immediately above the water-line so described.

(*b*) The expression "solid side" or "solid corner" means the line or spot marked out by solid objects, such as a *pucca* wall or the face of a house, the wayside lands and pavements thus being all included in the adjacent road, street or lane.

THE UNITED PROVINCES TOWN IMPROVEMENT (APPEALS) ACT, 1920.

ACT NO. III OF 1920.[1]

[*11th February, 1920.*]

An Act to modify certain provisions of the United Provinces Town Improvement Act, 1919.

U. P. Act VIII of 1919.

WHEREAS it is expedient to modify the provisions of the ~~United Provinces~~ Uttar Pradesh Town Improvement Act, 1919, so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the United Provinces Town Improvement (Appeals) Act, 1920.

Definitions.

2. In this Act—

(*1*) "High Court" means, ~~in Agra~~, the High Court of Judicature at Allahabad, ~~and in~~ Oudh, the ~~Court of the~~ Judicial Commissioner of ~~Oudh[2]; and~~

U. P. Act VIII of 1919.

(*2*) "Tribunal" has the same meaning as in the ~~United Provinces~~ Uttar Pradesh Town Improvement Act, 1919.

U. P. Act VIII of 1919.

Appeals from awards of the Tribunal.

3. (*1*) Notwithstanding anything contained in the ~~United Provinces~~ Uttar Pradesh Town Improvement Act, 1919, and subject to the provisions of sub-section (*2*), an appeal shall lie to the High Court in any of the following cases, namely:—

(*a*) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (*b*) of section 64 of the said Act;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 6 and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 17 and 82.

This Act has been extended to the Province of Delhi by notification No. F.-28-13 (5)/41-F. & L. (C.), dated the 19th May, 1941, *see* Gazette of India, 1941, Pt. I, p. 764.

[2] This reference should now be read as a reference to the Chief Court of Oudh.

(*b*) where the decision is that of the Tribunal, and—

(*i*) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(*ii*) the High Court grants special leave to appeal:

Provided that the High Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (*i*) and the amount in dispute is not less than five thousand rupees.

(*2*) An appeal under clause (*b*) of sub-section (*1*) shall only lie on one or more of the following grounds, namely:—

(*i*) the decision being contrary to law or to some usage having the force of law;

(*ii*) the decision having failed to determine some material issue of law or usage having the force of law;

(*iii*) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

Procedure in such appeals.

4. Subject to the provisions of section 3, the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this Act. V of 1908.

Execution of orders of High Court.

5. Every order passed by the High Court on appeal under this Act shall be enforced, on application, by a Court of Small Causes within the local limits of whose jurisdiction the award or order appealed against was made, as if it were a decree of that Court.

Period of limitation for such appeals.

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of Article 156 of the First Schedule to the Indian Limitation Act, 1908. V of 1908. IX of 1908.

THE PROVINCIAL INSOLVENCY ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title and extent.
2. Definitions.

PART I.

CONSTITUTION AND POWERS OF COURT.

3. Insolvency jurisdiction.
4. Power of Court to decide all questions arising in insolvency.
5. General powers of Courts.

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Acts of Insolvency.

SECTIONS.

6. Acts of insolvency.
7. Petition and adjudication.
8. Exemption of corporation, etc., from insolvency proceedings.
9. Conditions on which creditor may petition.
10. Conditions on which debtor may petition.
11. Court to which petition shall be presented.
12. Verification of petition.
13. Contents of petition.
14. Withdrawal of petitions.
15. Consolidation of petitions.
16. Power to change carriage of proceedings.
17. Continuance of proceedings on death of debtor.
18. Procedure for admission of petition.
19. Procedure on admission of petition.
20. Appointment of interim receiver.
21. Interim proceedings against debtor.
22. Duties of debtors.
23. Release of debtor.
24. Procedure at hearing.
25. Dismissal of petition.
26. Award of compensation.

Order of Adjudication.

27. Order of adjudication.
28. Effect of an order of adjudication.
28A. Insolvent's property to comprise certain capacity.
29. Stay of pending proceeding.
30. Publication of order of adjudication.

Proceedings consequent on order of Adjudication

31. Protection order.
32. Power to arrest after adjudication.
33. Schedule of creditors.
34. Debts provable under the Act.

Annulment of Adjudication.

35. Power to annul adjudication of insolvency.
36. Power to cancel one of concurrent orders of adjudication.
37. Proceedings on annulment.

Compositions and schemes of arrangement.

SECTIONS.

38. Compositions and schemes of arrangement.
39. Order on approval.
40. Power to re-adjudge debtor insolvent.

Discharge.

41. Discharge.
42. Cases in which Court must refuse an absolute discharge.
43. Adjudication to be annulled on failure to apply for discharge.
44. Effect of order of discharge.

PART III.

ADMINISTRATION OF PROPERTY.

Method of proof of debts.

45. Debt payable at a future time.
46. Mutual dealings and set-off.
47. Secured creditors.
48. Interest.
49. Mode of proof.
50. Disallowance and reduction of entries in schedule.

Effect of insolvency on antecedent transactions.

51. Restriction of rights of creditor under execution.
52. Duties of Court executing decree as to property taken in execution.
53. Avoidance of voluntary transfer.
54. Avoidance of preference in certain cases.
54A. By whom petitions for annulment may be made.
55. Protection of *bonâ fide* transactions.

Realisation of Property.

56. Appointment of receiver.
57. Power to appoint Official Receivers.
58. Powers of Court if no receiver appointed.
59. Duties and powers of receiver.
59A. Power to require information *re* insolvent's property.
60. Special provisions in regard to immovable property.

Distribution of Property.

61. Priority of debts.
62. Calculation of dividends.
63. Right of creditor who has not proved debt before declaration of a dividend.
64. Final dividend.

SECTIONS.

65. No suit for dividend.
66. Management by and allowance to insolvent.
67. Right of insolvent to surplus.
67A. Committee of inspection.

Appeal to Court against receiver.

68. Appeal to Court against receiver.

PART IV.

PENALTIES.

69. Offences by debtors.
70. Procedure on charge under section 69.
71. Criminal liability after discharge or composition.
72. Undischarged insolvent obtaining credit.
73. Disqualifications of insolvent.

PART V.

SUMMARY ADMINISTRATION.

74. Summary administration.

PART VI.

APPEALS.

75. Appeals.

PART VII.

MISCELLANEOUS.

76. Costs.
77. Courts to be auxiliary to each other.
78. Limitation.
79. Power to make rules.
80. Delegation of powers to Official Receivers.
81. Power of Provincial Government to bar application of certain provisions to certain Courts.
82. Savings.
83. Repeals.

SCHEDULE I.—DECISIONS AND ORDERS FROM WHICH AN APPEAL LIES TO THE HIGH COURT UNDER SECTION 75 (*2*).
SCHEDULE II.—PROVISIONS OF THE ACT APPLICATION OF WHICH MAY BE BARRED BY PROVINCIAL GOVERNMENTS.
SCHEDULE III.—[*Repealed.*]

ACT NO. V OF 1920.[1]

[25th February, 1920.]

An Act to consolidate and amend the Law relating to Insolvency ~~in~~ [2]~~[the Provinces of~~ India]~~,~~ as administered by Courts having jurisdiction outside the Presidency-towns [3]* * *.

WHEREAS it is expedient to consolidate and amend the law relating to insolvency ~~in~~ [2]~~[the~~ Provinces of India~~]~~, as administered by Courts having jurisdiction outside the Presidency-towns [3]* * *; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Provincial Insolvency Act, 1920.

(*2*) It extends to [4][~~all~~ the whole ~~Provinces~~ of India], except ~~the Scheduled Districts.~~[5] but B States and the scheduled districts

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "creditor" includes a decree-holder, "debt" includes a judgment-debt, and "debtor" includes a judgment-debtor;

(*b*) "District Court" means the principal Civil Court of original jurisdiction in any area outside the local limits for the time being of the Presidency-towns [6]* * *;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1918, Pt. V, p. 63; for Report of Select Committee, *see ibid.*, 1919, Pt. V, p. 119, and *ibid.*, 1920, Pt. V, p. 9; and for Proceedings in Council, *see ibid.*, 1918, Pt. VI, pp. 761 and 1322, and *ibid.*, 1920, Pt. VI, pp. 15 and 389.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and has been amended in the Punjab by Punjab Acts 7 of 1934 and 3 of 1939, in Bombay by Bombay Act 15 of 1939, and in the C. P. by C. P. Act 2 of 1936.

[2] Subs. by the A. O. 1948 for "British India".

[3] The words "and the town of Karachi" rep. by the A. O. 1948. In the long title the word "Karachi" had been subs. by the A. O. 1937 for "Rangoon. In the preamble the words "town of Karachi" had been subs. by the A. O. 1937 for "towns of Rangoon and Karachi" which had been subs. by the Insolvency (Amendment) Act, 1926 (9 of 1926), s. 11, for "town of Rangoon".

[4] Subs. by the A. O. 1948 for "the whole of British India".

[5] This Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to—

Coorg—*see* Gazette of India, 1920, Pt. II, p. 1333;
District of Darjeeling—*see* Calcutta Gazette, 1921, Pt. I, p. 288;
Districts of Cachar (excluding the North Cachar Hills), Goalpara, Kamrup, Darrang, Nowgong (excluding the Nowgong Mikir Hills Tract), Sibsagar (excluding the Sibsagar Mikir Hills Tract) and Lakhimpur (excluding the Lakhimpur Frontier Tract)—*see* Assam Gazette, 1920, Pt. II, p. 2511.
Andaman Islands (subject to modifications)—*see* Gazette of India, 1936, Pt. I, p. 234.

It has also been declared to be in force in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2.

[6] The following had been subs. by Act 9 of 1926, s. 11, for "and of the town of Rangoon":—

"the town of Rangoon and the limits of the ordinary original civil jurisdiction of the Court of the Judicial Commissioner of Sind as defined in Section 2 of the Presidency-towns Insolvency Act, 1909".

The first four words rep. by the A. O. 1937 and the remainder rep. by the A. O. 1948.

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "property" includes any property over which or the profits of which any person has a disposing power which he may exercise for his own benefit;

(*e*) "secured creditor" means a person holding a mortgage, charge or lien on the property of the debtor or any part thereof as a security for a debt due to him from the debtor; and

(*f*) "transfer of property" includes a transfer of any interest in property and the creation of any charge upon property.

(*2*) Words and expressions used in this Act and defined in the Code of Civil Procedure, 1908, and not hereinbefore defined shall have the same meanings as those respectively attributed to them by the said Code.

V of 1908.

PART I.

CONSTITUTION AND POWERS OF COURT.

Insolvency jurisdiction.

3. (*1*) The District Courts shall be the Courts having jurisdiction under this Act:

Provided that the [1][~~Provincial~~ State Government] may, by notification in the [2][Official Gazette], invest any Court subordinate to a District Court with jurisdiction in any class of cases, and any Court so invested shall within the local limits of its jurisdiction have concurrent jurisdiction with the District Court under this Act.

(*2*) For the purposes of this Act, a Court of Small Causes shall be deemed to be subordinate to the District Court.

Power of Court to decide all questions arising in insolvency.

4. (*1*) Subject to the provisions of this Act, the Court shall have full power to decide all questions whether of title or priority, or of any nature whatsoever, and whether involving matters of law or of fact, which may arise in any case of insolvency coming within the cognizance of the Court, or which the Court may deem it expedient or necessary to decide for the purpose of doing complete justice or making a complete distribution of property in any such case.

(*2*) Subject to the provisions of this Act and notwithstanding anything contained in any other law for the time being in force, every such decision shall be final and binding for all purposes as between, on the one hand, the debtor and the debtor's estate and, on the other hand, all claimants against him or it and all persons claiming through or under them or any of them.

(*3*) Where the Court does not deem it expedient or necessary to decide any question of the nature referred to in sub-section (*1*), but has reason to believe that the debtor has a saleable interest in any property, the Court may without further inquiry sell such interest in such manner and subject to such conditions as it may think fit.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

General powers of Courts.

5. (*1*) Subject to the provisions of this Act, the Court, in regard to proceedings under this Act, shall have the same powers and shall follow the same procedure as it has and follows in the exercise of original civil jurisdiction.

(*2*) Subject as aforesaid, High Courts and District Courts, in regard to proceedings under this Act in Courts subordinate to them, shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to civil suits.

PART II.

PROCEEDINGS FROM ACT OF INSOLVENCY TO DISCHARGE.

Act of Insolvency.

Acts of insolvency.

6. A debtor commits an act of insolvency in each of the following cases, namely:—

(*a*) if, in [1][~~the Provinces~~] India or elsewhere, he makes a transfer of all or substantially all his property to a third person for the benefit of his creditors generally ;

(*b*) if, in [1][~~the Provinces~~] India or elsewhere, he makes a transfer of his property or of any part thereof with intent to defeat or delay his creditors ;

(*c*) if, in [1][~~the Provinces~~] India or elsewhere, he makes any transfer of his property, or of any part thereof, which would, under this or any other enactment for the time being in force, be void as a fraudulent preference if he were adjudged an insolvent ;

(*d*) if, with intent to defeat or delay his creditors,—

  (*i*) he departs or remains out of [1][~~the Provinces~~] Part A States & Part C States,

  (*ii*) he departs from his dwelling-house or usual place of business or otherwise absents himself,

  (*iii*) he secludes himself so as to deprive his creditors of the means of communicating with him ;

(*e*) if any of his property has been sold in execution of the decree of any Court for the payment of money ;

(*f*) if he petitions to be adjudged an insolvent under the provisions of this Act ;

(*g*) if he gives notice to any of his creditors that he has suspended, or that he is about to suspend, payment of his debts ; or

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[1] Subs. by the A. O. 1948 for "British India".

6. **Amendment of section 9, Act V of 1920.**- To subsection (1) of section 9 of the Provincial Insolvency Act, 1920, the following proviso shall be added, namely:-

"Provided that where the said period of three months referred to in clause (c) expires on a day when the Court is closed, the insolvency petition may be presented on the day on which the Court reopens."

(*h*) if he is imprisoned in execution of the decree of any Court for the payment of money.[1]

Explanation.—For the purposes of this section the act of an agent may be the act of the principal.[2]

Petition.

Petition and adjudication.

7. Subject to the conditions specified in this Act, if a debtor commits an act of insolvency, an insolvency petition may be presented either by a creditor or by the debtor, and the Court may on such petition make an order (hereinafter called an order of adjudication) adjudging him an insolvent.

Explanation.—The presentation of a petition by the debtor shall be deemed an act of insolvency within the meaning of this section, and on such petition the Court may make an order of adjudication.

Exemption of corporation, etc., from insolvency proceedings.

8. No insolvency petition shall be presented against any corporation or against any association or company registered under any enactment for the time being in force.

Conditions on which creditor may petition.

9. (*1*) A creditor shall not be entitled to present an insolvency petition against a debtor unless—

(*a*) the debt owing by the debtor to the creditor, or, if two or more creditors join in the petition, the aggregate amount of debts owing to such creditors, amounts to five hundred rupees, and

(*b*) the debt is a liquidated sum payable either immediately or at some certain future time, and

(*c*) the act of insolvency on which the petition is grounded has occurred within three months before the presentation of the petition.

Proviso

(*2*) If the petitioning creditor is a secured creditor, he shall in his petition either state that he is willing to relinquish his security for the benefit of the creditors in the event of the debtor being adjudged insolvent, or give an estimate of the value of the security. In the latter case, he may be admitted as a petitioning creditor to the extent of the balance of the debt due to him after deducting the value so estimated in the same way as if he were an unsecured creditor.

Conditions on which debtor may petition.

10. (*1*) A debtor shall not be entitled to present an insolvency petition, unless he is unable to pay his debts and—

(*a*) his debts amount to [3]five hundred rupees ; or[4]

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[1] In the application of the Act to Bombay, a new clause (*i*) has been ins. here by the Presidency Towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939 (Bom. 15 of 1939), s. 3.

[2] In the application of the Act to Bombay, a new section 6A has been ins. here by s. 3, *ibid*.

[3] In the C. P., *read* "two hundred rupees", *see* the Provincial Insolvency (C. P. Amendment) Act, 1936 (C. P. 2 of 1936), s. 2.

[4] In the application of the Act to the Punjab, a new clause (*aa*) has been ins. here by the Punjab Relief of Indebtedness Act, 1934 (Pun. 7 of 1934), s. 3.

(*b*) he is under arrest or imprisonment in execution of the decree of any Court for the payment of money; or

(*c*) an order of attachment in execution of such a decree has been made, and is subsisting, against his property.

(2) A debtor in respect of whom an order of adjudication [1][whether made under the Presidency-towns Insolvency Act, 1909, or under this Act] has been annulled, owing to his failure to apply, or to prosecute an application for his discharge, shall not be entitled to present an insolvency petition without the leave of the Court by which the order of adjudication was annulled. Such Court shall not grant leave unless it is satisfied either that the debtor was prevented by any reasonable cause from presenting or prosecuting his application, as the case may be, or that the petition is founded on facts susbtantially different from those contained in the petition on which the order of adjudication was made. III of 1909.

Court to which petition shall be presented.

11. Every insolvency petition shall be presented to a Court having jurisdiction under this Act in any local area in which the debtor ordinarily resides or carries on business, or personally works for gain, or if he has been arrested or imprisoned, where he is in custody:

Provided that no objection as to the place of presentment shall be allowed by any Court in the exercise of appellate or revisional jurisdiction unless such objection was taken in the Court by which the petition was heard at the earliest possible opportunity, and unless there has been a consequent failure of justice.

Verification of petition.

12. Every insolvency petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. V of 1908.

Contents of petition.

13. (*1*) Every insolvency petition presented by a debtor shall contain the following particulars, namely:—

(*a*) a statement that the debtor is unable to pay his debts;

(*b*) the place where he ordinarily resides or carries on business or personally works for gain, or, if he has been arrested or imprisoned, the place where he is in custody;

(*c*) the Court (if any) by whose order he has been arrested or imprisoned, or by which an order has been made for the attachment of his property, together with particulars of the decree in respect of which any such order has been made;

(*d*) the amount and particulars of all pecuniary claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by, him;

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[1] Subs. by the Insolvency (Amendment) Act, 1927 (11 of 1927), s. 4, for "made under this Act".

(*e*) the amount and particulars of all his property, together with—

(*i*) a specification of the value of all such property not consisting of money;

(*ii*) the place or places at which any such property is to be found; and

(*iii*) a declaration of his willingness to place at the disposal of the Court all such property save in so far as it includes such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree;

V of 1908.

(*f*) a statement whether the debtor has on any previous occasion filed a petition to be adjudged an insolvent, and (where such a petition has been filed)—

(*i*) if such petition has been dismissed, the reasons for such dismissal, or

(*ii*) if the debtor has been adjudged an insolvent, concise particulars of the insolvency, including a statement whether any previous adjudication has been annulled and, if so, the grounds therefor.

(*2*) Every insolvency petition presented by a creditor or creditors shall set forth the particulars regarding the debtor specified in clause (*b*) of sub-section (*1*), and shall also specify—

(*a*) the act of insolvency committed by such debtor, together with the date of its commission; and

(*b*) the amount and particulars of his or their pecuniary claim or claims against such debtor.

Withdrawal of petitions.

14. No petition, whether presented by a debtor or by a creditor, shall be withdrawn without the leave of the Court.

Consolidation of petitions.

15. Where two or more insolvency petitions are presented against the same debtor, or where separate petitions are presented against joint debtors, the Court may consolidate the proceedings or any of them, on such terms as the Court thinks fit.

Power to change carriage of proceedings.

16. Where the petitioner does not proceed with due diligence on his petition, the Court may substitute as petitioner any other creditor to whom the debtor may be indebted in the amount required by this Act in the case of a petitioning creditor.

Continuance of proceedings on death of debtor.

17. If a debtor by or against whom an insolvency petition has been presented dies, the proceedings in the matter shall, unless the Court otherwise orders, be continued so far as may be necessary for the realisation and distribution of the property of the debtor.

V of 1908.

Procedure for admission of petition.

18. The procedure laid down in the Code of Civil Procedure, 1908, with respect to the admission of plaints, shall, so far as it is applicable, be followed in the case of insolvency petitions.

(Part II.—Proceedings from Act of Insolvency to Discharge.)

Procedure on admission of petition.

19. (*1*) Where an insolvency petition is admitted, the Court shall make an order fixing a date for hearing the petition.

(*2*) Notice of the order under sub-section (*1*) shall be given to creditors in such manner as may be prescribed.

(*3*) Where the debtor is not the petitioner, notice of the order under sub-section (*1*) shall be served on him in the manner provided for the service of summons.

Appointment of interim receiver.

20. The Court when making an order admitting the petition may, and where the debtor is the petitioner ordinarily shall, appoint an interim receiver of the property of the debtor or of any part thereof, and may direct him to take immediate possession thereof or of any part thereof, and the interim receiver shall thereupon have such of the powers conferable on a receiver appointed under the Code of Civil Procedure, 1908, as the Court may direct. If an interim receiver is not so appointed, the Court may make such appointment at any subsequent time before adjudication, and the provisions of [1][this section] shall apply accordingly. V of 1908.

Interim proceedings against debtor.

21. At the time of making an order admitting the petition or at any subsequent time before adjudication the Court may either of its own motion or on the application of any creditor make one or more of the following orders, namely:—

(*1*) order the debtor to give reasonable security for his appearance until final orders are made upon the petition, and direct that, in default of giving such security, he shall be detained in the civil prison ;

(*2*) order the attachment by actual seizure of the whole or any part of the property in the possession or under the control of the debtor, other than such particulars (not being his books of account) as are exempted by the Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree ; V of 1908.

(*3*) order a warrant to issue with or without bail for the arrest of the debtor, and direct either that he be detained in the civil prison until the disposal of the petition, or that he be released on such terms as to security as may be reasonable and necessary:

Provided that an order under clause (*2*) or clause (*3*) shall not be made unless the Court is satisfied that the debtor, with intent to defeat or delay his creditors or to avoid any process of the Court,—

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[1] Subs. by the Repealing and Amending Act, 1939 (34 of 1939), s. 2 and Sch. I, for "this sub-section".

(*i*) has absconded or has departed from the local limits of the jurisdiction of the Court, or is about to abscond or to depart from such limits, or is remaining outside them, or

(*ii*) has failed to disclose or has concealed, destroyed, transferred or removed from such limits, or is about to conceal, destroy, transfer or remove from such limits, any documents likely to be of use to his creditors in the course of the hearing, or any part of his property other than such particulars as aforesaid.

Duties of debtors.

22. The debtor shall on the making of an order admitting the petition produce all books of account, and shall at any time thereafter give such inventories of his property, and such lists of his creditors and debtors and of the debts due to and from them, respectively, submit to such examination in respect of his property or his creditors, attend at such times before the Court or receiver, execute such instruments, and generally do all such acts and things in relation to his property as may be required by the Court or receiver, or as may be prescribed.

Release of debtor.

23. (*1*) At the time of making an order admitting the petition or at any subsequent time before adjudication, the Court may, if the debtor is under arrest or imprisonment in execution of the decree of any Court for the payment of money, order his release on such terms as to security as may be reasonable and necessary.

(*2*) The Court may at any time order any person who has been released under this section to be re-arrested and re-committed to the custody from which he was released.

(*3*) At the time of making any order under this section, the Court shall record in writing its reasons therefor.

Procedure at hearing.

24. (*1*) On the day fixed for the hearing of the petition, or on any subsequent day to which the hearing may be adjourned, the Court shall require proof of the following matters, namely:—

(*a*) that the creditor or the debtor, as the case may be, is entitled to present the petition:

Provided that, where the debtor is the petitioner, he shall, for the purpose of proving his inability to pay his debts, be required to furnish only such proof as to satisfy the Court that there are *primâ facie* grounds for believing the same and the Court, if and when so satisfied, shall not be bound to hear any further evidence thereon ;

(*b*) that the debtor, if he does not appear on a petition presented by a creditor, has been served with notice of the order admitting the petition ; and

(*c*) that the debtor has committed the act of insolvency alleged against him.

(*2*) The Court shall also examine the debtor, if he is present, as to his conduct, dealings and property in the presence of such creditors as appear at the hearing, and the creditors shall have the right to question the debtor thereon.

(*3*) The Court shall, if sufficient cause is shown, grant time to the debtor or to any creditor to produce any evidence which appears to it to be necessary for the proper disposal of the petition.

(*4*) A memorandum of the substance of the examination of the debtor and of any other oral evidence given shall be made by the Judge, and shall form part of the record of the case.

Dismissal of petition.

25. (*1*) In the case of a petition presented by a creditor, where the Court is not satisfied with the proof of his right to present the petition or of the service on the debtor of notice of the order admitting the petition, or of the alleged act of insolvency, or is satisfied by the debtor that he is able to pay his debts, or that for any other sufficient cause no order ought to be made, the Court shall dismiss the petition.

(*2*) In the case of a petition presented by a debtor, the Court shall dismiss the petition if it is not satisfied of his right to present the petition.

Award of compensation.

26. (*1*) Where a petition presented by a creditor is dismissed under sub-section (*1*) of section 25, and the Court is satisfied that the petition was frivolous or vexatious, the Court may, on the application of the debtor, award against such creditor such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the debtor for the expense or injury occasioned to him by the petition and the proceedings thereon, and such amount may be realised as if it were a fine.

(*2*) An award under this section shall bar any suit for compensation in respect of such petition and the proceedings thereon.

Order of Adjudication.

Order of adjudication.

27. (*1*) If the Court does not dismiss the petition, it shall make an order of adjudication, and shall specify in such order the period within which the debtor shall apply for his discharge.

(*2*) The Court may, if sufficient cause is shown, extend the period within which the debtor shall apply for his discharge, and in that case shall publish notice of the order in such manner as it thinks fit.

Effect of an order of adjudication.

28. (*1*) On the making of an order of adjudication, the insolvent shall aid to the utmost of his power in the realisation of his property and the distribution of the proceeds among his creditors.

(*2*) On the making of an order of adjudication, the whole of the property of the insolvent shall vest in the Court or in a receiver as hereinafter provided, and shall become divisible among the creditors, and thereafter, except as provided by this Act, no creditor to whom the insolvent is indebted in respect of any debt provable under this Act shall during the

V of 1908.

2. Insertion of new section 28-B in Central Act V of 1920: After section 28-A of the Provincial Insolvency Act, 1920 (Central Act V of 1920), the following section shall be inserted, namely:-

"28-B. Section 28-A to apply to the merged territory of Pudukkottai from 1st April 1949 with certain modifications: Section 28-A shall, with effect on and from the 1st day of April 1949, be deemed to have applied to the merged territory of Pudukkottai, subject to the following modifications, namely:-

(i) in the first and second provisos, for the words, brackets and figures 'before the commencement of the Provincial Insolvency (Amendment) Act, 1948', the words, letters and figures 'before the 7th day of May 1947' shall be substituted. xx

(ii) In the second proviso, for the figures, letters and words '28th day of July 1942', the figure, letters and words '29th day of August 1944' shall be substituted." xx

M.A. VIII/53

pendency of the insolvency proceedings have any remedy against the property of the insolvent in respect of the debt, or commence any suit or other legal proceeding, except with the leave of the Court and on such terms as the Court may impose.

(*3*) For the purposes of sub-section (*2*), all goods being at the date of the presentation of the petition on which the order is made, in the possession, order or disposition of the insolvent in his trade or business, by the consent and permission of the true owner, under such circumstances that he is the reputed owner thereof, shall be deemed to be the property of the insolvent.

(*4*) All property which is acquired by or devolves on the insolvent after the date of an order of adjudication and before his discharge shall forthwith vest in the Court or receiver, and the provisions of sub-section (*2*) shall apply in respect thereof.

(*5*) The property of the insolvent for the purposes of this section shall not include any property (not being books of account) which is exempted by the Code of Civil Procedure, 1908, or by any other enactment for the time being in force from liability to attachment and sale in execution of a decree. V of 1908.

(*6*) Nothing in this section shall affect the power of any secured creditor to realise or otherwise deal with his security, in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

(*7*) An order of adjudication shall relate back to, and take effect from, the date of the presentation of the petition on which it is made.

Insolvent's property to comprise certain capacity.

[1][**28A.** The property of the insolvent shall comprise and shall always be deemed to have comprised also the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of property as might have been exercised by the insolvent for his own benefit at the commencement of his insolvency or before his discharge:

Provided that nothing in this section shall affect any sale, mortgage or other transfer of the property of the insolvent by a Court or receiver or the Collector acting under section 60 made before the commencement of the Provincial Insolvency (Amendment) Act, 1948 which has been the subject of a final decision by a competent Court:

Provided further that the property of the insolvent shall not be deemed by reason of anything contained in this section to comprise his capacity referred to in this section in respect of any such sale, mortgage or other transfer of property made in the ~~Province~~ State of Madras after the 28th day of July, 1942, and before the commencement of the Provincial Insolvency (Amendment) Act, 1948.]

28-B

[illegible]

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[1] Ins. by the Provincial Insolvency (Amendment) Act, 1948 (25 of 1948), s. 2.

(Part II.—Proceedings from Act of Insolvency to Discharge.)

Stay of pending proceeding.

29. Any Court in which a suit or other proceeding is pending against a debtor shall, on proof that an order of adjudication has been made against him under this Act, either stay the proceeding, or allow it to continue on such terms as such Court may impose.

Publication of order of adjudication.

30. Notice of an order of adjudication stating the name, address and description of the insolvent, the date of the adjudication, the period within which the debtor shall apply for his discharge, and the Court by which the adjudication is made, shall be published in the [1][Official Gazette] and in such other manner as may be prescribed.

Proceedings consequent on order of Adjudication.

Protection order.

31. *(1)* Any insolvent in respect of whom an order of adjudication has been made may apply to the Court for protection, and the Court may on such application make an order for the protection of the insolvent from arrest or detention.

(2) A protection order may apply either to all the debts of the debtor, or to any of them as the Court may think proper, and may commence and take effect at and for such time as the Court may direct, and may be revoked or renewed as the Court may think fit.

(3) A protection order shall protect the insolvent from being arrested or detained in prison for any debt to which such order applies, and any insolvent arrested or detained contrary to the terms of such an order shall be entitled to his release:

Provided that no such order shall operate to prejudice the rights of any creditor in the event of such order being revoked or the adjudication annulled.

(4) Any creditor shall be entitled to appear and oppose the grant of a protection order.

Power to arrest after adjudication.

32. At any time after an order of adjudication has been made, the Court may, if it has reason to believe on the application of any creditor or the receiver that the debtor has absconded or departed from the local limits of its jurisdiction with intent to avoid any obligation which has been, or might be, imposed on him by or under this Act, order a warrant to issue for his arrest, and on his appearing or being brought before it, may, if satisfied that he was absconding or had departed with such intent, order his release on such terms as to security as may be reasonable or necessary, or, if such security is not furnished, direct that he shall be detained in the civil prison for a period which may extend to three months.

Schedule of creditors.

33. *(1)* When an order of adjudication has been made under this Act, all persons alleging themselves to be creditors of the insolvent in respect of debts provable under this Act shall tender proof of their respective debts by producing evidence of the amount and particulars thereof, and the Court shall, by order, determine the persons who have proved themselves to be creditors of the insolvent in respect of such debts, and the amount of such debts, respectively, and shall frame a schedule of such persons and debts:

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[1] Subs. by the A. O. 1937 for "local official Gazette".

Provided that, if, in the opinion of the Court, the value of any debt is incapable of being fairly estimated, the Court may make an order to that effect, and thereupon the debt shall not be included in the schedule.

(*2*) A copy of every such schedule shall be posted in the Court-house.

(*3*) Any creditor of the insolvent may, at any time before the discharge of the insolvent, tender proof of his debt and apply to the Court for an order directing his name to be entered in the schedule as a creditor in respect of any debt provable under this Act, and not entered in the schedule, and the Court, after causing notice to be served on the [1][receiver] and the other creditors who have proved their debts, and hearing their objections (if any), shall comply with or reject the application.

Debts provable under the Act.

34. (*1*) Debts which have been excluded from the schedule on the ground that their value is incapable of being fairly estimated and demands in the nature of unliquidated damages arising otherwise than by reason of a contract or a breach of trust shall not be provable under this Act.

(*2*) Save as provided by sub-section (*1*), all debts and liabilities, present or future, certain or contingent, to which the debtor is subject when he is adjudged an insolvent, or to which he may become subject before his discharge by reason of any obligation incurred before the date of such adjudication, shall be deemed to be debts provable under this Act.

Annulment of Adjudication.

Power to annul adjudication of insolvency.

35. Where, in the opinion of the Court, a debtor ought not to have been adjudged insolvent, or where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court shall, on the application of the debtor, or of any other person interested, by order in writing, annul the adjudication [2][and the Court may, of its own motion or on application made by the receiver or any creditor, annul any adjudication made on the petition of a debtor who was, by reason of the provisions of sub-section (*2*) of section 10, not entitled to present such petition].

Power to cancel one of concurrent orders of adjudication.

36. If, in any case in which an order of adjudication has been made, it shall be proved to the Court by which such order was made that insolvency proceedings are pending in another Court against the same debtor, and that the property of the debtor can be more conveniently distributed by such other Court, the Court may annul the adjudication or stay all proceedings thereon.

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[1] Subs. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 2, for "insolvent".

[2] Ins. by the Insolvency (Amendment) Act, 1927 (11 of 1927), s. 5.

Proceedings on annulment.

37. (1) Where an adjudication is annulled, all sales and dispositions of property and payments duly made, and all acts theretofore done, by the Court or receiver, shall be valid; but, subject as aforesaid, the property of the debtor who was adjudged insolvent shall vest in such person as the Court may appoint, or, in default of any such appointment, shall revert to the debtor to the extent of his right or interest therein on such conditions (if any) as the Court may, by order in writing, declare.

(2) Notice of every order annulling an adjudication shall be published in the [1][Official Gazette] and in such other manner as may be prescribed.

Compositions and schemes of arrangement.

Compositions and schemes of arrangement.

38. (1) Where a debtor, after the making of an order of adjudication, submits a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, the Court shall fix a date for the consideration of the proposal, and shall issue a notice to all creditors in such manner as may be prescribed.

(2) If, on the consideration of the proposal, a majority in number and three-fourths in value of all the creditors whose debts are proved and who are present in person or by pleader, resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The debtor may at the meeting amend the terms of his proposal if the amendment is, in the opinion of the Court, calculated to benefit the general body of creditors.

(4) Where the Court is of opinion, after hearing the report of the receiver, if a receiver has been appointed, and after considering any objections which may be made by or on behalf of any creditor, that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(5) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than six annas in the rupee on all the unsecured debts provable against the debtor's estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

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[1] Subs. by the A. O. 1937 for "local official Gazette".

(7) In any other case the Court may either approve or refuse to approve the proposal.

39. If the Court approves the proposal, the terms shall be embodied in an order of the Court, and [1]* * * * the order of adjudication shall be annulled, and the provisions of section 37 shall apply, and the composition or scheme shall be binding on all the creditors [2][so far as relates to any debt due to them from the debtor and provable under this Act]. Order on approval.

40. If default is made in the payment of any instalment due in pursuance of the composition or scheme, or if it appears to the Court that the composition or scheme cannot proceed without injustice or undue delay, or that the approval of the Court was obtained by fraud, the Court may, if it thinks fit, re-adjudge the debtor insolvent and annul the composition or scheme but without prejudice to the validity of any transfer or payment duly made or of anything duly done under or in pursuance of the composition or scheme. When a debtor is re-adjudged insolvent under this section, all debts provable in other respects which have been contracted before the date of such re-adjudication shall be provable in the insolvency. Power to re-adjudge debtor insolvent.

Discharge.

41. (*1*) A debtor may, at any time after the order of adjudication and shall, within the period specified by the Court, apply to the Court for an order of discharge, and the Court shall fix a day, notice whereof shall be given in such manner as may be prescribed, for hearing such application, and any objections which may be made thereto. Discharge.

(*2*) Subject to the provisions of this section, the Court may, after considering the objections of any creditor and, where a receiver has been appointed, the report of the receiver—

(*a*) grant or refuse an absolute order of discharge ; or
(*b*) suspend the operation of the order for a specified time ; or
(*c*) grant an order of discharge subject to any conditions with respect to any earnings or income which may afterwards become due to the insolvent, or with respect to his after-acquired property.

42. (*1*) The Court shall refuse to grant an absolute order of discharge under section 41 on proof of any of the following facts, namely :— Cases in which Court must refuse an absolute discharge.

(*a*) that the insolvent's assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities, unless he satisfies the Court that the fact that the assets are not of a value equal to eight annas in the rupee on the amount of his unsecured liabilities has arisen from circumstances for which he cannot justly be held responsible ;

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[1] The words "the Court shall frame a schedule in accordance with the provisions of section 33" rep. by the Provincial Insolvency (Amendment) Act, 1935 (10 of 1935), s. 2.

[2] Subs. by s. 2, *ibid.*, for "entered in the said schedule so far as relates to any debts entered therein".

(*b*) that the insolvent has omitted to keep such books of account as are usual and proper in the business carried on by him and as sufficiently disclose his business transactions and financial position within the three years immediately preceding his insolvency ;

(*c*) that the insolvent has continued to trade after knowing himself to be insolvent ;

(*d*) that the insolvent has contracted any debt provable under this Act without having at the time of contracting it any reasonable or probable ground of expectation (the burden of proving which shall lie on him) that he would be able to pay it ;

(*e*) that the insolvent has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet his liabilities ;

(*f*) that the insolvent has brought on, or contributed to, his insolvency by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling, or by culpable neglect of his business affairs ;

(*g*) that the insolvent has, within three months preceding the date of the presentation of the petition, when unable to pay his debts as they became due, given an undue preference to any of his creditors ;

(*h*) that the insolvent has on any previous occasion been adjudged an insolvent or made a composition or arrangement with his creditors ;

(*i*) that the insolvent has concealed or removed his property or any part thereof, or has been guilty of any other fraud or fraudulent breach of trust.

(*2*) For the purposes of this section, the report of the receiver shall be deemed to be evidence ; and the Court may presume the correctness of any statement contained therein.

(*3*) The powers of suspending, and of attaching conditions to, an insolvent's discharge may be exercised concurrently.

Adjudication to be annulled on failure to

43. (*1*) If the debtor does not appear on the day fixed for hearing his application for discharge or on such subsequent day as the Court may direct, or if the debtor does not apply for an order of discharge within

the court may annul the orders of adjudication or make such other order as it may think fit
111/50

the period specified by the Court, ~~the order of~~ and if the adjudication is so ~~shall be~~ annulled, ~~and~~ the provisions of section 37 shall apply ~~accordingly.~~

apply for discharge.

(2) Where a debtor has been released from custody under the provisions of this Act and the order of adjudication is annulled under sub-section (*1*), the Court may, if it thinks fit, re-commit the debtor to his former custody, and the officer in charge of the prison to whose custody such debtor is so re-committed shall receive such debtor into his custody according to such re-commitment, and thereupon all processes which were in force against the person of such debtor at the time of such release as aforesaid shall be deemed to be still in force against him as if no order of adjudication had been made.

Effect of order of discharge.

44. (*1*) An order of discharge shall not release the insolvent from—

(*a*) any debt due to the Crown ;

(*b*) any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party ;

(*c*) any debt or liability in respect of which he has obtained forbearance by any fraud to which he was a party ; or

V of 1898.

(*d*) any liability under an order for maintenance made under section 488 of the Code of Criminal Procedure, 1898.

(*2*) Save as otherwise provided by sub-section (*1*), an order of discharge shall release the insolvent from all debts provable under this Act.

(*3*) An order of discharge shall not release any person who, at the date of the presentation of the petition, was a partner or co-trustee with the insolvent, or was jointly bound or had made any joint contract with him or any person who was surety for him.

PART III.

ADMINISTRATION OF PROPERTY.

Method of proof of debts.

Debt payable at a future time.

45. A creditor may prove for a debt not payable when the debtor is adjudged an insolvent as if it were payable presently, and may receive dividends equally with the other creditors, deducting therefrom only a rebate of interest at the rate of six per centum per annum computed from the declaration of a dividend to the time when the debt would have become payable, according to the terms on which it was contracted.

Mutual dealings and set-off.

46. Where there have been mutual dealings between an insolvent and a creditor proving or claiming to prove a debt under this Act, an account shall be taken of what is due from the one party to the other in respect of such mutual dealings, and the sum due from the one party shall be set off against any sum due from the other party, and the balance of the account, and no more, shall be claimed or paid on either side respectively.

Secured creditors.

47. (1) Where a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised.

(2) Where a secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.

(3) Where a secured creditor does not either realise or relinquish his security, he shall, before being entitled to have his debt entered in the schedule, state in his proof the particulars of his security, and the value at which he assesses it, and shall be entitled to receive a dividend only in respect of the balance due to him after deducting the value so assessed.

(4) Where a security is so valued, the Court may at any time before realisation redeem it on payment to the creditor of the assessed value.

(5) Where a creditor, after having valued his security, subsequently realises it, the net amount realised shall be substituted for the amount of any valuation previously made by the creditor, and shall be treated in all respects as an amended valuation made by the creditor.

(6) Where a secured creditor does not comply with the provisions of this section, he shall be excluded from all share in any dividend.

Interest.

48. (1) On any debt or sum certain whereon interest is not reserved or agreed for, and which is overdue when the debtor is adjudged an insolvent, and which is provable under this Act, the creditor may prove for interest at a rate not exceeding six per centum per annum—

(a) if the debt or sum is payable by virtue of a written instrument at a certain time, from the time when such debt or sum was payable to the date of such adjudication ; or,

(b) if the debt or sum is payable otherwise, from the time when a demand in writing has been made giving the debtor notice that interest will be claimed from the date of the demand until the time of payment to the date of such adjudication.

(2) Where a debt which has been proved under this Act includes interest or any pecuniary consideration in lieu of interest, the interest or consideration shall, for the purposes of dividend, be calculated at a rate not exceeding six per centum per annum, without prejudice to the right of a creditor to receive out of the debtor's estate any higher rate of interest to which he may be entitled after all the debts proved have been paid in full.

Mode of proof.

49. (*1*) A debt may be proved under this Act by delivering, or sending by post in a registered letter, to the Court an affidavit verifying the debt.

(*2*) The affidavit shall contain or refer to a statement of account showing the particulars of the debt, and shall specify the vouchers (if any) by which the same can be substantiated. The Court may at any time call for the production of the vouchers.

Disallowance and reduction of entries in schedule.

50. (*1*) Where the receiver thinks that a debt has been improperly entered in the schedule, the Court may, on the application of the receiver and after notice to the creditor, and such inquiry (if any) as the Court thinks necessary, expunge such entry or reduce the amount of the debt.

(*2*) The Court may also, after like inquiry, expunge an entry or reduce the amount of a debt upon the application of a creditor where no receiver has been appointed, or where the receiver declines to interfere in the matter or, in the case of a composition or scheme, upon the application of the debtor.

Effect of insolvency on antecedent transactions.

Restriction of rights of creditor under execution.

51. (*1*) Where execution of a decree has issued against the property of a debtor, no person shall be entitled to the benefit of the execution against the receiver except in respect of assets realised in the course of the execution by sale or otherwise before the date of the admission of the petition.

(*2*) Nothing in this section shall affect the rights of a secured creditor in respect of the property against which the decree is executed.

(*3*) A person who in good faith purchases the property of a debtor under a sale in execution shall in all cases acquire a good title to it against the receiver.

Duties of Court executing decree as to property taken in execution.

52. Where execution of a decree has issued against any property of a debtor which is saleable in execution and before the sale thereof notice is given to the Court executing the decree that an insolvency petition by or against the debtor has been admitted, the Court shall, on application, direct the property, if in the possession of the Court, to be delivered to the receiver, but the costs of the suit in which the decree was made and of the execution shall be a first charge on the property so delivered, and the receiver may sell the property or an adequate part thereof for the purpose of satisfying the charge.

Avoidance of voluntary transfer.

53. Any transfer of property not being a transfer made before and in consideration of marriage or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration shall, if the transferor is adjudged insolvent [1][on a petition presented] within two years after the date of the transfer, be voidable as against the receiver and may be annulled by the Court.

Avoidance of preference in certain cases.

54. (*1*) Every transfer of property, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, with a view of giving that creditor a preference over the other creditors, shall, if such person is adjudged insolvent on a petition presented within three months after the date thereof, be deemed fraudulent and void as against the receiver, and shall be annulled by the Court.

(*2*) This section shall not affect the rights of any person who in good faith and for valuable consideration has acquired a title through or under a creditor of the insolvent.

By whom petitions for annulment may be made.

[2][**54A.** A petition for the annulment of any transfer under section 53, or of any transfer, payment, obligation or judicial proceeding under section 54, may be made by the receiver or, with the leave of the Court, by any creditor who has proved his debt and who satisfies the Court that the receiver has been requested and has refused to make such petition.]

Protection of *bonâ fide* transactions.

55. Subject to the foregoing provisions of this Act with respect to the effect of insolvency on an execution, and with respect to the avoidance of certain transfers and preferences, nothing in this Act shall invalidate in the case of an insolvency—

(*a*) any payment by the insolvent to any of his creditors;

(*b*) any payment or delivery to the insolvent;

(*c*) any transfer by the insolvent for valuable consideration; or

(*d*) any contract or dealing by or with the insolvent for valuable consideration:

Provided that any such transaction takes place before the date of the order of adjudication, and that the person with whom such transaction takes place has not at the time notice of the presentation of any insolvency petition by or against the debtor.

Realisation of Property.

Appointment of receiver.

56. (*1*) The Court may, at the time of the order of adjudication, or at any time afterwards, appoint a receiver for the property of the insolvent, and such property shall thereupon vest in such receiver.

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[1] Ins. by the Insolvency Law (Amendment) Act, 1930 (10 of 1930), s. 6.

[2] Ins. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 3.

(*2*) Subject to such conditions as may be prescribed, the Court may—

(*a*) require the receiver to give such security as it thinks fit duly to account for what he shall receive in respect of the property; and

(*b*) by general or special order, fix the amount to be paid as remuneration for the services of the receiver out of the assets of the insolvent.

(*3*) Where the Court appoints a receiver, it may remove the person in whose possession or custody any such property as aforesaid is from the possession or custody thereof:

Provided that nothing in this section shall be deemed to authorise the Court to remove from the possession or custody of property any person whom the insolvent has not a present right so to remove.

(*4*) Where a receiver appointed under this section—

(*a*) fails to submit his accounts at such periods and in such form as the Court directs, or

(*b*) fails to pay the balance due from him thereon as the Court directs, or

(*c*) occasions loss to the property by his wilful default or gross negligence,

the Court may direct his property to be attached and sold, and may apply the proceeds to make good any balance found to be due from him or any loss so occasioned by him.

(*5*) The provisions of this section shall apply, so far as may be, to interim receivers appointed under section 20.

Power to appoint Official Receivers.

57. (*1*) The [1][Provincial Government] may appoint such persons as it thinks fit (to be called "Official Receivers") to be receivers under this Act within such local limits as it may prescribe.

(*2*) Where any Official Receiver has been so appointed for the local limits of the jurisdiction of any Court having jurisdiction under this Act, he shall be the receiver for the purpose of every order appointing a receiver or an interim receiver issued by any such Court, unless the Court for special reasons otherwise directs.

(*3*) Any sum payable under clause (*b*) of sub-section (*2*) of section 56 in respect of the services of an Official Receiver shall be credited to such fund as the [1][Provincial Government] may direct.

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[1] Subs. by the A. O. 1937 for "L. G."

(*Part III.—Administration of Property.*)

(*4*) Every Official Receiver shall receive such remuneration out of the said fund or otherwise as the [1][Provincial Government] may fix in this behalf, and no remuneration whatever beyond that so fixed shall be received by the Official Receiver as such.

Powers of Court if no receiver appointed.

58. Where no receiver is appointed, the Court shall have all the rights of, and may exercise all the powers conferred on, a receiver under this Act.

Duties and powers of receiver.

59. Subject to the provisions of this Act, the receiver shall, with all convenient speed, realise the property of the debtor and distribute dividends among the creditors entitled thereto, and for that purpose may—

(*a*) sell all or any part of the property of the insolvent ;

(*b*) give receipts for any money received by him ;

and may, by leave of the Court, do all or any of the following things, namely:—

(*c*) carry on the business of the insolvent so far as may be necessary for the beneficial winding up of the same ;

(*d*) institute, defend or continue any suit or other legal proceeding relating to the property of the insolvent ;

(*e*) employ a pleader or other agent to take any proceedings or do any business which may be sanctioned by the Court ;

(*f*) accept as the consideration for the sale of any property of the insolvent a sum of money payable at a future time subject to such stipulations as to security and otherwise as the Court thinks fit ;

(*g*) mortgage or pledge any part of the property of the insolvent for the purpose of raising money for the payment of his debts ;

(*h*) refer any dispute to arbitration, and compromise all debts, claims and liabilities, on such terms as may be agreed upon ; and

(*i*) divide in its existing form amongst the creditors, according to its estimated value, any property which, from its peculiar nature or other special circumstances, cannot readily or advantageously be sold.

Power to require information regarding insolvent's property.

[2][**59A.** (*1*) The Court, if specially empowered in this behalf by an order of the [1][Provincial Government], or any officer of the Court so empowered by a like order, may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudi-

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Ins. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 4.

cation has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent, or any person whom the Court or such officer, as the case may be, may deem capable of giving information respecting the insolvent or his dealings or property, and the Court or such officer may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(*2*) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court or such officer at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court or such officer, the Court or such officer may, by warrant, cause him to be apprehended and brought up for examination.

(*3*) The Court or such officer may examine any person so brought before it or him concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.]

Special provisions in regard to immoveable property.

V of 1908.

60. (*1*) In any local area in which a declaration has been made under section 68 of the Code of Civil Procedure, 1908, and is in force, no sale of immoveable property paying revenue to the Government or held or let for agricultural purposes shall be made by the receiver; but, after the other property of the insolvent has been realised, the Court shall ascertain—

(*a*) the amount required to satisfy the debts proved under this Act after deducting the monies already received;

(*b*) the immovable property of the insolvent remaining unsold; and

(*c*) the incumbrances (if any) existing thereon;

and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by paragraphs 2 to 10 of the Third Schedule to the said Code as he thinks fit, and subject to the provisions of those paragraphs so far as they are applicable, and shall hold at the disposal of the Court all sums that may come to his hands by the exercise of such powers.

(*2*) Nothing in this Act shall be deemed to affect any provisions of any enactment for the time being in force prohibiting or restricting the execution of decrees or orders against immoveable property; and any such provisions shall be deemed to apply to the enforcement of an order of adjudication made under this Act as if it were such a decree or order.[1]

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[1] In the application of the Act to the Punjab, a new sub-section (*3*) has been added here by the Provincial Insolvency (Punjab Amendment) Act, 1939 (Pun. 3 of 1939), s. 2.

(*Part III.—Administration of Property.*)

Distribution of Property.

Priority of debts.

61. (*1*) In the distribution of the property of the insolvent, there shall be paid in priority to all other debts—

(*a*) all debts due to the Crown or to any local authority; and

(*b*) all salary or wages, not exceeding twenty rupees in all, of any clerk, servant or labourer in respect of services rendered to the insolvent during four months before the date of the presentation of the petition.

(*2*) The debts specified in sub-section (*1*) shall rank equally between themselves, and shall be paid in full, unless the property of the insolvent is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(*3*) Subject to the retention of such sums as may be necessary for the expenses of administration or otherwise, the debts specified in sub-section (*1*) shall be discharged forthwith in so far as the property of the insolvent is sufficient to meet them.

(*4*) In the case of partners, the partnership property shall be applicable in the first instance in payment of the partnership debts, and the separate property of each partner shall be applicable in the first instance in payment of his separate debts. Where there is a surplus of the separate property of the partners, it shall be dealt with as part of the partnership property; and where there is a surplus of the partnership property, it shall be dealt with as part of the respective separate property in proportion to the rights and interests of each partner in the partnership property.

(*5*) Subject to the provisions of this Act, all debts entered in the schedule shall be paid rateably according to the amounts of such debts respectively and without any preference.

(*6*) Where there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date on which the debtor is adjudged an insolvent at the rate of six per centum per annum on all debts entered in the schedule.

Calculation of dividends.

62. (*1*) In the calculation of dividends, the receiver shall retain in his hands sufficient assets to meet—

(*a*) debts provable under this Act and appearing, from the insolvent's statements or otherwise, to be due to persons resident in places so distant that in the ordinary course of communication they have not had sufficient time to tender their proofs;

(*b*) debts provable under this Act, the subject of claims not yet determined;

(*c*) disputed proofs or claims ; and

(*d*) the expenses necessary for the administration of the estate or otherwise.

(*2*) Subject to the provisions of sub-section (*1*), all money in hand shall be distributed as dividends.

Right of creditor who has not proved debt before declaration of a dividend.

63. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid, out of any money for the time being in the hands of the receiver, any dividend or dividends which he may have failed to receive before that money is applied to the payment of any future dividend or dividends ; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved by reason that he has not participated therein.

Final dividend.

64. When the receiver has realised all the property of the insolvent or so much thereof as can, in the opinion of the Court, be realised without needlessly protracting the receivership, he shall declare a final dividend ; but before so doing, he shall give notice in manner prescribed to the persons whose claims to be creditors have been notified but not proved, that if they do not prove their claims within the time limited by the notice, he will proceed to make a final dividend without regard to their claims. After the expiration of the time so limited, or if the Court, on application by any such claimant, grants him further time for establishing his claim, then on the expiration of such further time, the property of the insolvent shall be divided among the creditors entered in the schedule without regard to the claims of any other persons.

No suit for dividend.

65. No suit for a dividend shall lie against the receiver ; but where the receiver refuses to pay any dividend, the Court may, on the application of any creditor who is entered in the schedule, order him to pay it, and also to pay out of his own money interest thereon for the time that it is withheld, and the costs of the application.

Management by and allowance to insolvent.

66. (*1*) The Court may appoint the insolvent himself to superintend the management of the property of the insolvent or of any part thereof, or to carry on the trade (if any) of the insolvent for the benefit of the creditors, and in any other respect to aid in administering the property in such manner and on such terms as the Court may direct.

(*2*) The Court may, from time to time, make such allowance as it may think just to the insolvent out of his property for the support of himself and his family, or in consideration of his services if he is engaged in winding up his estate ; but any such allowance may, at any time, be varied or determined by the Court.

Right of insolvent to surplus.

67. The insolvent shall be entitled to any surplus remaining after payment in full of his creditors with interest as provided by this Act, and of the expenses of the proceedings taken thereunder.

Committee of inspection.

[1][**67A.** (*1*) The Court may, if it thinks fit, authorise the creditors who have proved their debts to appoint a committee of inspection for the purpose of superintending the administration of the insolvent's property by the receiver.

(*2*) The persons appointed to a committee of inspection shall be creditors who have proved their debts or persons holding general powers-of-attorney from such creditors.

(*3*) The committee of inspection shall have such powers of control over the proceedings of the receiver as may be prescribed.]

Appeal to Court against receiver.

Appeal to Court against receiver.

68. If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just:

Provided that no application under this section shall be entertained after the expiration of twenty-one days from the date of the act or decision complained of.

PART IV.

PENALTIES.

Offences by debtors.

69. If a debtor, whether before or after the making of an order of adjudication,—

(*a*) wilfully fails to perform the duties imposed on him by section 22 or to deliver up possession of any part of his property which is divisible among his creditors under this Act, and which is for the time being in his possession or under his control to the Court or to any person authorised by the Court to take possession of it, or

(*b*) fraudulently with intent to conceal the state of his affairs or to defeat the objects of this Act,—

  (*i*) has destroyed or otherwise wilfully prevented or purposely withheld the production of any document relating to such of his affairs as are subject to investigation under this Act, or

  (*ii*) has kept or caused to be kept false books, or

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[1] Ins. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 5.

(*iii*) has made false entries in or withheld entries from or wilfully altered or falsified any document relating to such of his affairs as are subject to investigation under this Act, or

(*c*) fraudulently with intent to diminish the sum to be divided among his creditors or to give an undue preference to any of his creditors,—

(*i*) has discharged or concealed any debt due to or from him, or

(*ii*) has made away with, charged, mortgaged or concealed any part of his property of any kind whatsoever,

he shall be punishable on conviction [1]* * * with imprisonment which may extend to one year.

Procedure on charge under section 69.

[2][70. Where the Court is satisfied, after such preliminary inquiry, if any, as it thinks necessary, that there is ground for inquiring into any offence referred to in section 69 and appearing to have been committed by the insolvent, the Court may record a finding to that effect and make a complaint of the offence in writing to a Magistrate of the first class having jurisdiction, and such Magistrate shall deal with such complaint in the manner laid down in the Code of Criminal Procedure, 1898.]

V of 1898.

Criminal liability after discharge or composition.

71. Where an insolvent has been guilty of any of the offences specified in section 69, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge or that a composition or scheme of arrangement has been accepted or approved.

Undischarged insolvent obtaining credit.

72. (*1*) An undischarged insolvent obtaining credit to the extent of fifty rupees or upwards from any person without informing such person that he is an undischarged insolvent shall, on conviction by a Magistrate, be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

(*2*) Where the Court has reason to believe that an undischarged insolvent has committed the offence referred to in sub-section (*1*), the Court, after making any preliminary inquiry that may be necessary, may send the case for trial to the nearest Magistrate of the first class, and may send the accused in custody or take sufficient security for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial.

Disqualifications of insolvent.

73. (*1*) Where a debtor is adjudged or re-adjudged insolvent under this Act, he shall, subject to the provisions of this section, be disqualified from—

(*a*) being appointed or acting as a Magistrate;

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[1] The words "by the Court" rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

[2] Subs. by the Insolvency (Amendment) Act, 1926 (9 of 1926), s. 11, as amended by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II, for the original section.

(*b*) being elected to any office of any local authority where the appointment to such office is by election or holding or exercising any such office to which no salary is attached ; and

(*c*) being elected or sitting or voting as member of any local authority.

(*2*) The disqualifications which an insolvent is subject to under this section shall be removed, and shall cease if—

(*a*) the order of adjudication is annulled under section 35, or

(*b*) he obtains from the Court an order of discharge, whether absolute or conditional, with a certificate that his insolvency was caused by misfortune without any misconduct on his part.

(*3*) The Court may grant or refuse such certificate as it thinks fit, but any order of refusal shall be subject to appeal.

PART V.

SUMMARY ADMINISTRATION.

Summary administration.

74. When a petition is presented by or against a debtor, if the Court is satisfied by affidavit or otherwise that the property of the debtor is not likely to exceed in value five hundred rupees[1], the Court may make an order that the debtor's estate be administered in a summary manner, and thereupon the provisions of this Act shall be subject to the following modifications, namely:—

(*i*) unless the Court otherwise directs, no notice required under this Act shall be published in the [2][Official Gazette];

(*ii*) on the admission of a petition by a debtor, the property of the debtor shall vest in the Court as a receiver;

(*iii*) at the hearing of the petition, the Court shall inquire into the debts and assets of the debtor and determine the same by order in writing, and it shall not be necessary to frame a schedule under the provisions of section 33;

(*iv*) the property of the debtor shall be realised with all reasonable despatch and thereafter, when practicable, distributed in a single dividend;

(*v*) the debtor shall apply for his discharge within six months from the date of adjudication; and

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[1] In Punjab *read* "two thousand rupees", *see* the Punjab Relief of Indebtedness Act, 1934 (Pun. 7 of 1934), s. 4.

[2] Subs. by the A. O. 1937 for "local official Gazette".

(*vi*) such other modifications as may be prescribed with the view of saving expense and simplifying procedure:

Provided that the Court may at any time direct that the ordinary procedure provided for in this Act shall be followed in regard to the debtor's estate, and thereafter the Act shall have effect accordingly.

PART VI.

APPEALS.

Appeals.

75. (*1*) The debtor, any creditor, the receiver or any other person aggrieved by a decision come to or an order made in the exercise of insolvency jurisdiction by a Court subordinate to a District Court may appeal to the District Court, and the order of the District Court upon such appeal shall be final:

Provided that the High Court, for the purpose of satisfying itself that an order made in any appeal decided by the District Court was according to law, may call for the case and pass such order with respect thereto as it thinks fit:

Provided, further, that any such person aggrieved by a decision of the District Court on appeal from a decision of a subordinate Court under section 4 may appeal to the High Court on any of the grounds mentioned in sub-section (*1*) of section 100 of the Code of Civil Procedure, 1908.

V of 1908.

(*2*) Any such person aggrieved by any such decision or order of a District Court as is specified in Schedule I, come to or made otherwise than in appeal from an order made by a subordinate Court, may appeal to the High Court.

(*3*) Any such person aggrieved by any other order made by a District Court otherwise than in appeal from an order made by a subordinate Court may appeal to the High Court by leave of the District Court or of the High Court.

(*4*) The periods of limitation for appeals to the District Court and to the High Court under this section shall be thirty days and ninety days, respectively.

PART VII.

MISCELLANEOUS.

Costs.

76. The costs of any proceeding under this Act, including the costs of maintaining a debtor in the civil prison, shall, subject to any rules made under this Act, be in the discretion of the Court in which the proceeding is had.

Courts to be auxiliary to each other.

77. All Courts having jurisdiction in insolvency and the officers of such Courts, respectively, shall severally act in aid of and be auxiliary to each other in all matters of insolvency, and an order of a Court seeking aid with a request to another of the said Courts shall be deemed sufficient to enable the latter Court to exercise, in regard to the matters directed by the order, such jurisdiction as either of such Courts could exercise in regard to similar matters within their respective jurisdictions.

Limitation.

78. (*1*) The provisions of sections 5 and 12 of the Indian Limitation Act, 1908, shall apply to appeals and applications under this Act, and for the purpose of the said section 12, a decision under section 4 shall be deemed to be a decree.

IX of 1908.

(*2*) Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application in respect of which the leave of the Court was obtained under sub-section (*2*) of section 28) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded:

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act.

Power to make rules.

79. [1][(*1*) The High Court may, with the previous sanction of the Provincial Government, make rules for carrying into effect the provisions of this Act.]

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

- (*a*) for the appointment and remuneration of receivers (other than Official Receivers), the audit of the accounts of all receivers and the costs of such audit,[2]
- (*b*) for meetings of creditors,
- (*c*) for the procedure to be followed where the debtor is a firm, [3]*
- (*d*) for the procedure to be followed in the case of estates to be administered in a summary manner, [4][and
- (*e*) for any matter which is to be or may be prescribed.]

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[1] Subs. by the A. O. 1937 for the original sub-section.

[2] In the application of the Act to Bombay, a new clause (*aa*) has been ins. here by the Presidency Towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939 (Bom. 15 of 1939), s. 3.

[3] The word "and" rep. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 6.

[4] Ins. by s. 6, *ibid.*

(*Part VII.—Miscellaneous.*)

(*3*) All rules made under this section shall be published [1]* * * in the [2][Official Gazette], [3]* * * * and shall, on such publication, have effect as if enacted in this Act.

Delegation of powers to Official Receivers.

80. (*1*) The High Court, with the like sanction, may from time to time direct that, in any matters in respect of which jurisdiction is given to the Court by this Act, the Official Receiver shall, subject to the directions of the Court, have all or any of the following powers, namely:—

[4]* * * *

(*b*) to frame schedules and to admit or reject proofs of creditors;

[4]* * * *

(*e*) to make interim orders in any case of urgency; and

(*f*) to hear and determine any unopposed or *ex-parte* application.

(*2*) Subject to the appeal to the Court provided for by section 68, any order made or act done by the Official Receiver in the exercise of the said powers shall be deemed the order or act of the Court.

Power of Provincial Government to bar application of certain provisions to certain Courts.

81. Any [5][Provincial Government] [6]* * may, by notification in the [2][Official Gazette], declare that any of the provisions of this Act specified in Schedule II shall not apply to insolvency proceedings in any Court or Courts having jurisdiction under this Act in any part of the territories administered by such [5][Provincial Government].

Savings.

82. Nothing in this Act shall—

(*a*) affect the Presidency-towns Insolvency Act, 1909, [7]* * or

III of 1909.

(*b*) apply to cases to which Chapter IV of the Dekkhan Agriculturists Relief Act, 1879, is applicable.

XVII of 1879.

Repeals.

83. [8]* * * * * * * *

(*2*) Where in any enactment or instrument in force at the date of the commencement of this Act, reference is made to Chapter XX (of Insolvent Judgment-debtors) of the Code of Civil Procedure, 1877, or of the Code of Civil Procedure, 1882, or to any section of either of those Chapters, such reference shall, so far as may be practicable, be construed as applying to this Act or to the corresponding section thereof.

X of 1877.

XIV of 1882.

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[1] The words "in the Gazette of India or" rep. by the A. O. 1937.

[2] Subs. by the A. O. 1937 for "local official Gazette".

[3] The words "as the case may be" rep. by the A. O. 1937.

[4] Cls. (*a*), (*c*) and (*d*) rep. by the Provincial Insolvency (Amendment) Act, 1926 (39 of 1926), s. 7.

[5] Subs. by the A. O. 1937 for "L. G."

[6] The words "with the previous sanction of the G. G. in C.", rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[7] The words and figures "or s. 8 of the Lower Burma Courts Act, 1900" rep. by the Repealing and Amending Act, 1930 (8 of 1930), s. 3 and Sch. II.

[8] Sub-section (*1*) rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

(*Schedule I. Schedule II.*)

SCHEDULE I.

[*See* section 75 (2).]

Decisions and Orders from which an appeal lies to the High Court under section 75 (2).

Section.	Nature of decision or order.
4	Decision of questions of title, priority, etc., arising in insolvency.
25	Order dismissing a petition.
26	Order awarding compensation.
27	Order of adjudication.
33	Orders regarding entries in the schedule.
35	Order annulling adjudication.
37	Order declaring the conditions on which the debtor's property shall revert to him on annulment of adjudication.
41	Order on application for discharge.
50	Order disallowing or reducing entries in the schedule.
53	Order annulling a voluntary transfer.
54	Decision that a transfer of property is a preference in favour of a creditor.
[1]*	* * * *

SCHEDULE II.

(*See* section 81.)

Provisions of the Act application of which may be barred by [2][*Provincial Governments*].

Provisions of the Act.	Subject.
Section.	
26	Award of compensation.
28, sub-section (3).	Reputed property of an insolvent.
34	Debts provable under the Act.

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[1] The entry relating to s. 69 was rep. by the Repealing Act, 1927 (12 of 1927), s. 2 and Sch.

[2] Subs. by the A. O. 1937 for "Local Governments".

SCHEDULE II—*concld.*

Provisions of the Act.	Subject.
Section.	
38	Compositions and schemes of arrangement.
39	
40	
42, sub-sections (*1*) and (*2*).	Obligation to refuse absolute discharge.
45	Method of proof of debts.
46	
47	
48	
49	
50	
51	Effect of insolvency on antecedent transactions.
52	
53	
54	
55	
61 [except clause (*a*) of sub-section (*1*) and sub-section (*4*)].	Priority of debts.
62	Dividends.
63	
64	
65	
66	Management by and allowance to insolvent.
72	Penalty for obtaining of credit by undischarged insolvent.

SCHEDULE III.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE INDIAN SECURITIES ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Notice of trust not receivable save as provided.
4. Right of survivors of joint or several payees of Government securities.
5. Indorsements to be made on security itself.
6. Holding of Government securities by holders of public offices.
7. Issue of securities to rulers of States in India.
8. Indorser of Government security not liable for amount thereof.
9. Impression of signature on Government securities.

Issue of duplicate, renewed, converted, consolidated or sub-divided securities.

10. Issue of duplicate securities.
11. Renewal of bearer bonds.
12. Renewal of promissory notes.
13. Renewal of promissory notes in case of dispute as to title.
14. Renewal of other securities.
15. Issue of converted, etc., securities.
16. Liability in respect of promissory note renewed, etc.

Discharge.

17. Immediate discharge in certain cases.
18. Discharge in other cases.
18A. Discharge in respect of interest.

Summary procedure in certain cases.

19. Procedure on death of holder of securities not exceeding an aggregate value of five thousand rupees.

Securities held by minors and lunatics.

20. Payment in case of securities held by minors and lunatics.

Indemnity.

21. Indemnity.

Inspection of registers, books and documents.

22. Inspection of documents.

Penalty.

23. Penalty.

SECTIONS.

Rules.

24. Power to make rules.
25. [*Repealed.*]
26. Provision as to Indian securities.

ACT NO. X OF 1920.[1]

[*11th March, 1920.*]

An Act to consolidate and amend the law relating to Government Securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Securities Act, 1920.

(*2*) It extends[2] to [3][~~all~~ the ~~Provinces~~ whole of India] [4]* * * except Part B states; and

(*3*) It shall come into force on the first day of April, 1920.

Short title, extent and commencement.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(*a*) "Government security" means promissory notes (including treasury bills), stock-certificates, bearer bonds and all other securities issued by the [5][Central Government] or by ~~any~~ the [6][~~Provincial~~ Government] of any Part A States in respect of any loan contracted either before or after the passing of this Act, but does not include a currency-note; and

(*b*) "prescribed" means prescribed by rules made under this Act:

[7][(*c*) "the Government" or "Government" in relation to any loan or security, means the Government raising the loan or issuing the security.]

3. (*1*) Save as otherwise provided in or under this Act, no notice of any trust in respect of any Government security shall be receivable by the Government.

Notice of trust not receivable save as provided.

(*2*) The Government shall not be deemed to have received notice of any trust by reason only of the fact that it has recognised an indorsement on a Government security by an executor or administrator as such, nor shall it inquire into the terms of any will by which such executor or administrator may be bound, but, on being satisfied of the due appointment of such executor or administrator, it shall be entitled to treat him as the full owner of any Government security belonging to the estate of the person whom he represents.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, dated 29th October, 1919, p. 529; for Report of Select Committee, *see* Gazette of India, 1920, Pt. V, p. 39; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, p. 734.

[2] This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

This Act ceased to apply with effect from the 1st May, 1946, to certain Government securities and other matters, *see* the Public Debt (Central Government) Act, 1944 (18 of 1944), s. 29.

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "including British Baluchistan" rep. by the A. O. 1948.

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "L. G."

[7] Ins. by the A. O. 1937.

Right of survivors of joint or several payees of Government securities.

4. (*1*) Notwithstanding anything in section 45 of the Indian Contract Act, 1872,— IX of 1872.

(*a*) when a Government security is payable to two or more persons jointly, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, and

(*b*) when a Government security is payable to two or more persons severally, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons, or to the representative of the deceased, or to any of them.

(*2*) This section shall apply whether such death occurred or occurs before or after this Act comes into force.

(*3*) Nothing herein contained shall affect any claim which any representatives of a deceased person may have against the survivor or survivors under or in respect of any security to which sub-section (*1*) applies.

[1][(*4*) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force whether within or without [2][~~the Provinces~~], relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.] VII of 1913. II of 1912.

India

Indorsements to be made on security itself.

5. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, no indorsement of a Government promissory note shall be valid unless made by the signature of the holder inscribed on the back of the security itself. XXVI of 1881.

Holding of Government securities by holders of public offices.

6. (*1*) In the case of any public office to which the [3][Government] may, by notification in the [4][Official Gazette], declare this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder of the office by the name of the office.

(*2*) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

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[1] Ins. by the Indian Securities (Amendment) Act, 1928 (2 of 1928), s. 2.
[2] Subs. by the A. O. 1948 for "British India".
[3] Subs. by the A. O. 1937 for "G. G. in C."
[4] Subs. by the A. O. 1937 for "Gazette of India".

(3) When the holder of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office by the name of the office, shall not be deemed to be or to have been invalid by reason only of the security having been so made or indorsed.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

XXVI of 1881.

Issue of securities to rulers of States in India.

7. Notwithstanding anything in the Negotiable Instruments Act, 1881, the [1][Government] may, in respect of any loan, issue to the ruler of any [2][~~Acceding State or other Indian State~~] Part B State Government securities in such form and subject to such conditions as to negotiability, succession and other matters as may be prescribed.

XXVI of 1881.

Indorser of Government security not liable for amount thereof.

8. Notwithstanding anything in the Negotiable Instruments Act, 1881, a person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

Impression of signature on Government securities.

9. (1) The signature of the person authorised to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the [1][Government] may direct, on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

Issue of duplicate, renewed, converted, consolidated or sub-divided securities.

Issue of duplicate securities.

10. (1) When a Government security is alleged to have been lost, [3][stolen] or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, [3][theft] or destruction it would be payable, he may, on application to the prescribed [4][authority], and on producing proof to [5][its] satisfaction of the loss, [3][theft] or destruction and of the justice of the claim and on payment of the prescribed fee, if any, obtain from [6][it] an order for—

(a) the payment of interest in respect of the security said to be lost, [3][stolen] or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1948 for "State in India".
[3] Ins. by the Indian Securities (Amendment) Act, 1927 (21 of 1927), s. 2.
[4] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), s. 2, for "officer".
[5] Subs. by s. 2, *ibid.*, for "his".
[6] Subs. by s. 2, *ibid.*, for "him".

(*2*) An order shall not be passed under sub-section (*1*) until after the issue of the prescribed notification of the loss, [1][theft] or destruction.

(*3*) A list of the securities in respect of which an order is passed under sub-section (*1*) shall be published in the prescribed manner.

[1][(*4*) If at any time before the Government becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.]

Renewal of bearer bonds.

11. The holder of a bearer bond or other Government security payable to bearer may, on application to the prescribed [2][authority], on delivery of the bearer bond or other security, and on payment of the prescribed fee, if any, obtain from such [2][authority] a renewed bearer bond or other security, as the case may be.

Renewal of promissory notes.

12. Subject to the provisions of section 13, a person claiming to be entitled to a Government promissory note, may, on applying to the prescribed [2][authority], and on satisfying [3][it] of the justice of his claim and delivering the promissory note receipted in the prescribed manner, and paying the prescribed fee, if any, obtain from such [2][authority] a renewed promissory note payable to him:

Provided that, when application is made for the renewal of a Government promissory note which appears to the prescribed [2][authority] to stand in the name of a deceased member of a Hindu undivided family governed by the *Mitakshara* law, a renewed promissory note shall not be issued to the applicant unless he furnishes a certificate signed by such authority and after such inquiry as may be prescribed to the effect that the deceased belonged to a Hindu undivided family governed by the *Mitakshara* law, that the promissory note formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

Explanation.—The expression " Hindu undivided family governed by the *Mitakshara* law " shall, for the purposes of this section, be deemed to include a Malabar *taruad*.

Renewal of promissory notes in case of dispute as to title.

13. (*1*) Where there is a dispute as to the title to a Government promissory note in respect of which an application for renewal has been made, the prescribed [2][authority] may—

(*a*) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such note, issue a renewed note in favour of such party, or

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[1] Ins. by the Indian Securities (Amendment) Act, 1927 (21 of 1927), s. 2.

[2] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), ss. 3, 4 and 5, for " officer ".

[3] Subs. by s. 4, *ibid.*, for " him ".

(*b*) refuse to renew the note until such a decision has been obtained, or

(*c*) after such inquiry as is hereinafter provided and consideration of the result thereof, declare by order in writing which of the parties is in [1][its] opinion entitled to such note and may, after the expiration of three months from the date of such declaration, issue a renewed note in favour of such party in accordance with the provisions of section 12, unless within that period [2][it] has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such note.

Explanation.—For the purposes of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(*2*) For the purpose of the inquiry referred to in sub-section (*1*), the prescribed [3][authority] may [4][direct one of its officers to] record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. When such request has been made to the District Magistrate, such Magistrate may himself record or may direct any Magistrate of the first-class subordinate to him, or any Magistrate of the second-class subordinate to him and empowered by general or special order of the [5][Government] in this behalf, to record the evidence, and shall forward a copy thereof to the prescribed [3][authority].

Explanation.—For the purposes of this sub-section, the District Magistrate means the District Magistrate having jurisdiction in the place where interest on the promissory note is payable and, where interest is payable at a presidency-town, the Chief Presidency Magistrate, or at a place in [6][~~an Acceding State or other Indian State~~] Part B State, the Political Agent.

(*3*) [7][The officer of the prescribed authority] or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

Renewal of other securities.

14. Government securities other than those mentioned in sections 11 and 12 may be renewed in such circumstances and in such manner as may be prescribed.

Issue of converted, etc., securities.

15. (*1*) The prescribed [8][authority] may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Government security or securities, on being satisfied of the justice of the claim and on delivery of the security or securities receipted in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

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[1] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), s. 5, for "his".
[2] Subs. by s. 5, *ibid.*, for "he".
[3] Subs. by s. 5, *ibid.*, for "officer".
[4] Subs. by s. 5, *ibid.*, for "himself".
[5] Subs. by the A. O. 1937 for "L. G."
[6] Subs. by the A. O. 1948 for "a state in India".
[7] Subs. by Act 28 of 1937, s. 5, for "The prescribed officer".
[8] Subs. by s. 6, *ibid.*, for "officer".

(*2*) The conversion, consolidation or sub-division referred to in sub-section (*1*) may be into a security or securities of the same or different classes or of the same or different loans.

Liability in respect of promissory note renewed, etc.

16. (*1*) When a renewed Government promissory note has been issued under section 12, or a new Government promissory note has been issued upon conversion, consolidation or sub-division under section 15, in favour of any person, the note so issued shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him.

(*2*) No such renewal, conversion, consolidation or sub-division shall affect the rights as against the Government of any other person to the security or securities so renewed, converted, consolidated or sub-divided.

Discharge.

Immediate discharge in certain cases.

17. On payment by or on behalf of the Government to the holder of a bearer bond or other Government security payable to bearer of the amount expressed therein on or after the date when it becomes due, or on renewal of a bearer bond or other security payable to bearer under section 11, or on renewal of a Government promissory note under section 13, or on conversion, consolidation or sub-division of a bearer bond or other security payable to bearer under section 15, the Government shall be discharged in the same way and to the same extent as if such bearer bond, promissory note or other security were a promissory note payable to bearer:

Provided that, in the case of a Government promissory note renewed under section 13, nothing in this section shall be deemed to bar a claim against the Government in respect of such note by any person who had no notice of the proceedings under that section, or who derives title through any such person.

Discharge in other cases.

18. Save as otherwise provided in this Act—

(*i*) on payment of the amount due on a Government security on or after the date on which payment becomes due, or

(*ii*) when a duplicate security has been issued under section 10, or

(*iii*) when a renewed security has been issued under section 12 or section 13, or a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 15,

the Government shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate, renewed, or new security or securities has or have been issued—

(*a*) in the case of payment—after the lapse of six years from the date on which payment was due;

(*b*) in the case of a duplicate security—after the lapse of six years from the date of the publication under sub-section (*3*) of section 10 of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is later;

(*c*) in the case of a renwed security or of a new security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

Discharge in respect of interest.

[1][**18A.** Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on any such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.]

Summary procedure in certain cases.

Procedure on death of holder of securities not exceeding an aggregate value of five thousand rupees.

19. (*1*) If within six months of the death of a person who was entitled to a Government security or securities (other than a security payable to bearer) the nominal or face value of which does not in the aggregate exceed five thousand rupees, probate of the will or letters of administration of the estate of such person or a certificate granted under the [2]Succession Certificate Act, 1889, is not produced to the prescribed [3][authority], such [3][authority] may, after inquiry in the manner provided in sub-sections (*2*) and (*3*) of section 13, determine who is the person entitled to the security or securities or to administer the estate of the deceased, and may—

VII of 1889.

(*a*) in the case of any such security relating to a loan due for repayment, authorise payment of the amount due thereon to such person; and

(*b*) in the case of any such security relating to a loan not due for repayment, authorise, in the case of a promissory note, the renewal of such promissory note in favour of such person, or, in the case of stock, the registration of the name of such person in substitution for the name of the deceased.

(*2*) Upon the payment or renewal of any promissory note in accordance with sub-section (*1*), the Government shall be discharged from all liability in respect of the note so paid or renewed; and any substitution of names made in accordance with clause (*b*) of sub-section (*1*) shall, for the purposes of any claim against the Government, be deemed to have effected a valid transfer of the stock in respect of which it was made.

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[1] Ins. by the Indian Securities (Amendment) Act, 1927 (21 of 1927), s. 3.

[2] *See* now the Indian Succession Act, 1925 (39 of 1925).

[3] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), s. 6, for "officer".

(*3*) Any creditor or claimant against the estate of the deceased may recover his debt or claim out of money paid to any person under sub-section (*1*) and remaining in his hands unadministered in the same manner and to the same extent as if the said person had obtained letters of administration of the estate of the deceased, and nothing in this section shall affect any claim of an executor or administrator or other representative of the deceased against such person other than a claim to recover amounts lawfully paid by him in due course of administration of the estate of the deceased.

Securities held by minors and lunatics.

Payment in case of securities held by minors and lunatics.

20. Where a Government security stands in the name of or is held by a minor or a person who is insane and incapable of managing his affairs, the interest accruing thereon, or the capital sum payable in respect thereof on the maturity or discharge of the loan, shall, where, in the case of interest payable, the nominal value of the security, or in other cases the sum payable, does not exceed five thousand rupees, be paid in such manner as may be prescribed, and on any payment being so made, the Government shall, notwithstanding any provision of any enactment to the contrary, be discharged from all liability in respect thereof.

Indemnity.

Indemnity.

21. Notwithstanding anything in section 10, 12, 13 or 15, the prescribed [1][authority] may in any case arising under any of those sections—

(*i*) issue a duplicate or renewed security or convert, consolidate or sub-divide a security or securities upon the applicant giving the prescribed indemnity against the claims of all persons claiming under the original security or under the security or securities so renewed, converted, consolidated or sub-divided, as the case may be, or

(*ii*) refuse to issue a duplicate or renewed security or to convert, consolidate or sub-divide a security or securities unless such indemnity is given.

Inspection of registers, books and documents.

Inspection of documents.

22. No person shall be entitled to inspect, or to receive information derived from, any Government security in the possession of the Government or from any book, register or other document kept or maintained by or on behalf of Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

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[1] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), s. 6, for "officer".

Penalty.

Penalty.

23. (*1*) If any person, for the purpose of obtaining for himself or for any other person payment of interest or of the capital sum due in respect of any Government security, or the issue of a duplicate security, or the renewal, conversion, consolidation or sub-division of a Government security or securities, makes to any authority under this Act a statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(*2*) No Court shall take cognizance of any offence under sub-section (*1*) save on the complaint of the authority to whom the false statement was made.

Rules.

Power to make rules.

24. (*1*) The [1][Government] may after previous publication make rules[2] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which payment of interest in respect of Government securities is to be made and acknowledged;

(*b*) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed;

(*c*) the form in which and the conditions subject to which Government securities may be issued to the rulers of States in India;

(*d*) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Government securities;

(*e*) the proof which is to be produced by persons applying for duplicate securities;

(*f*) the form and manner of publication of the notification mentioned in sub-section (*2*) of section 10 and the manner of publication of the list mentioned in sub-section (*3*) of that section;

(*g*) the [3][authority which] is to exercise all or any of the powers and to perform all or any of the duties referred to in sections 10, 11, 12, 13, 15, 19 and 21;

(*h*) the manner of making the inquiry mentioned in the proviso to section 12;

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] For such rules, *see* Gen. R. and O., Supplementary Vol. III, p. 467.

[3] Subs. by the Indian Securities (Amendment) Act, 1937 (28 of 1937), s. 7, for "officer who".

(*i*) the circumstances and the manner in which securities other than securities payable to bearer or promissory notes are to be renewed ;

(*j*) the form in which securities delivered for discharge, renewal, conversion, consolidation or sub-division are to be receipted ;

(*k*) the conditions subject to which securities may be converted, consolidated or sub-divided ;

(*l*) the person to whom and the manner in which payments are to be made in respect of Government securities standing in the name of, or held by, minors or persons who are insane and incapable of managing their affairs ;

(*m*) the taking of indemnities against adverse claims of third parties from persons who receive payment of interest or of the capital sum due in respect of Government securities, or who obtain duplicate, renewed, converted, consolidated or sub-divided securities ;

(*n*) the manner in which any document relating to Government securities or any indorsement on a Government promissory note may, on the demand of any person who from any cause is unable to write, be executed on his behalf ;

(*o*) enabling holders of Government stock to be described in the registers of such stock as trustees, and either as trustees of any particular trust or as trustees without qualification, and for the recognition of powers of attorney granted by holders of stock so described ;

(*p*) the holding of Government stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which stock so held may be transferred ;

(*q*) the mode of attestation of documents relating to Government stock ;

(*r*) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities ; and

(*s*) the circumstances and the manner in which and the conditions subject to which inspection of securities, books, registers and other documents may be allowed or information therefrom may be given under section 22.

(3) Nothing in any rule made under clauses (*o*) and (*p*) shall, as between any trustees or as between any trustees and the beneficiaries under a trust, be deemed to authorise the trustees to act otherwise than in accordance with the rules of law applying to the trust and the terms of the instrument constituting the trust ; and neither the Government nor any person holding or acquiring any interest in any Government stock shall by reason only of

any entry in any register maintained by or on behalf of the Government in relation to any Government stock or any stockholder, or of anything in any document relating to Government stock, be affected with notice of any trust or of the fiduciary character of any stockholder or of any fiduciary obligation attaching to the holding of any Government stock.

(*4*) Rules made under this section shall be published in the [1][Official Gazette]. and shall thereupon have effect as if enacted in this Act.

25. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

Provision as to Indian Securities.

[2][**26.** For the avoidance of doubt it is hereby declared that the rights of all persons in relation to Indian securities are to be determined, in connection with all such questions as are dealt with by this Act in relation to Government securities, by the law ~~of~~ [3][the ~~Provinces of India].~~ in force in Part A States & Part C States

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THE CHARITABLE AND RELIGIOUS TRUSTS, ACT, 1920.

ACT NO. XIV OF 1920.[4]

[*20th March, 1920.*]

An Act to provide more effectual control over the administration of Charitable and Religious Trusts.

WHEREAS it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature, and to enable the trustees of such trusts to obtain the directions of a Court on certain matters, and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Charitable and Religious Trusts Act, 1920.

the whole of India except the State of Jammu & Kashmir

(*2*) It extends[5] to [6][~~all the Provinces of India~~]:

Provided that the [7][Government of any Province] may, by notification in the [1][Official Gazette] direct that this Act, or any specified part thereof, shall not extend to [1][that Province or any specified area therein] or to any specified trust or class of trusts.

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[1] Subs. by the A. O. 1937 for "Gazette of India".

[2] Ins. by the A. O. 1937.

[3] Subs. by the A. O. 1948 for "British India".

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1919, Pt. V, p. 88; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 85, and for Proceedings in Council, *see ibid.*, 1919, Pt. VI, p. 879, and *ibid.*, 1920, Pt. VI, pp. 49 and 787.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and repealed in Orissa by the Orissa Hindu Religious Endowments Act, 1939 (Orissa 4 of 1939). The provisions of this Act, in so far as they are inconsistent with the provisions of the Bengal Wakf Act, 1934 (Ben. 13 of 1934), do not apply to any Wakf property in Bengal: *see* s. 81 of that Act.

[5] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[6] Subs. by the A. O. 1948 for "the whole of British India".

[7] Subs. by the A. O. 1937 for "G. G. in C.".

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context, "the Court" means the Court of the District Judge [2][or any other Court empowered in that behalf by the [3][Provincial Government]] and includes the High Court in the exercise of its ordinary original civil jurisdiction.

Power to apply to the Court in respect of trusts of a charitable or religious nature.

3. Save as hereinafter provided in this Act, any person having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:—

(*1*) directing the trustee to furnish the petitioner through the Court with particulars as to the nature and objects of the trust, and of the value, condition, management and application of the subject-matter of the trust, and of the income belonging thereto, or as to any of these matters, and

(*2*) directing that the accounts of the trust shall be examined and audited:

Provided that no person shall apply for any such direction in respect of accounts relating to a period more than three years prior to the date of the petition.

Contents and vertification of petition.

4. (*1*) The petition shall show in what way the petitioner claims to be interested in the trust, and shall specify, as far as may be, the particulars and the audit which he seeks to obtain.

(*2*) The petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. **V of 1908.**

Procedure on petition.

5. (*1*) If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given.

(*2*) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard, and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall, at the time of the first hearing or within such time as the Court may permit, present a written statement of his case. If he does present a written statement, the statement shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying pleadings. V of 1908.

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[1] Subs. by the A. O. 1937 for "any specified Province or area".

[2] Ins. by the Charitable and Religious Trusts (Amendment) Act, 1923 (41 of 1923), s. 2.

[3] Subs. by the A. O. 1937 for "L. G."

(*3*) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay, until the suit is finally decided.

(*4*) If no such undertaking is given, or if after the expiry of the three months no such suit has been instituted, the Court shall itself decide the question.

(*5*) On completion of the inquiry provided for in sub-section (*2*), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit:

Provided that, where a suit has been instituted in accordance with the provisions of sub-section (*3*), no order shall be passed by the Court which conflicts with the final decision therein.

(*6*) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust.

Failure of trustee to comply with order under section 5.

6. If a trustee without reasonable excuse fails to comply with an order made under sub-section (*5*) of section 5, such trustee shall, without prejudice to any other penalty or liability which he may incur under any law for the time being in force, be deemed to have committed a breach of trust affording ground for a suit under the provisions of section 92 of the Code of Civil Procedure, 1908; and any such suit may, so far as it is based on such failure, be instituted without the previous consent of the Advocate General. V of 1908.

Powers of trustee to apply for directions.

7. (*1*) Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice or direction, as the case may be, thereon:

Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.

(*2*) The Court on a petition under sub-section (*1*), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the persons interested in the trust, or to be published for information in such manner, as it thinks fit.

(*3*) On any date fixed under sub-section (*2*) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.

(*4*) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (*1*), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made.

Costs of petition under this Act.

8. The costs, charges and expenses of and incidental to any petition, and all proceedings in connection therewith, under the foregoing provisions of this Act, shall be in the discretion of the Court, which may direct the whole or any part of any such costs, charges and expenses to be met from the property or income of the trust in respect of which the petition is made, or to be borne and paid in such manner and by such persons as it thinks fit:

Provided that no such order shall be made against any person (other than the petitioner) who has not received notice of the petition and had a reasonable opportunity of being heard thereon.

Savings.

9. No petition under the foregoing provisions of this Act in relation to any trust shall be entertained in any of the following circumstances, namely:—

(*a*) if a suit instituted in accordance with the provisions of section 92 of the Code of Civil Procedure, 1908, is pending in respect of the trust in question; V of 1908.

(*b*) if the trust property is vested in the Treasurer of Charitable Endowments, the Administrator-General, the Official Trustee, or any Society registered under the Societies Registration Act, 1860; or XXI of 1860.

(*c*) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction, or by any other authority acting under the provisions of any enactment.

Power of Courts as to costs in certain suits against trustees of charitable

10. (*1*) In any suit instituted under section 14 of the Religious Endowments Act, 1863, or under section 92 of the Code of Civil Procedure, 1908, the Court trying such suit may, if, on application of the plaintiff and after hearing the defendant and making such inquiry as it thinks fit, it is satisfied that such an order is necessary in the public XX of 1863. V of 1908.

and religious trusts.

interest, direct the defendant either to furnish security for any expenditure incurred or likely to be incurred by the plaintiff in instituting and maintaining such suit, or to deposit from any money in his hands as trustees of the trust to which the suit relates such sum as such Court considers sufficient to meet such expenditure in whole or in part.

(*2*) When any money has been deposited in accordance with an order made under sub-section (*1*), the Court may make over to the plaintiff the whole or any part of such sum for the conduct of the suit. Before making over any sum to the plaintiff, the Court shall take security from the plaintiff for the refund of the same in the event of such refund being subsequently ordered by the Court.

V of 1908.

Provisions of the Code of Civil Procedure to apply.

11. (*1*) The provisions of the Code of Civil Procedure, 1908, relating to—

(*a*) the proof of facts by affidavit,

(*b*) the enforcing of the attendance of any person and his examination on oath,

(*c*) the enforcing of the production of documents, and

(*d*) the issuing of commissions,

shall apply to all proceedings under this Act, and the provisions relating to the service of summonses shall apply to the service of notices thereunder.

(*2*) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders under this Act.

Barring of appeals.

12. No appeal shall lie from any order passed or against any opinion, advice or direction given under this Act.[1]

THE INDIAN RED CROSS SOCIETY ACT, 1920.

ACT NO. XV OF 1920.[2]

[*20th March, 1920.*]

An Act to constitute an Indian Red Cross Society.

WHEREAS it is expedient to provide for the future administration of the various monies and gifts received from the public for the purpose of medical and other aid to the sick and wounded, and other purposes of a like nature during the late war, and more especially for the administration of the monies and property held by a Committee known as the Joint War Committee, Indian Branch, of the Order of St. John of Jerusalem in England and the British Red Cross Society;

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[1] In the application of this Act to Bengal, a new s. 13 providing that the provisions of this Act shall not, so far as they are inconsistent with those of the Bengal Wakf Act, 1934 (Ben. 13 of 1934), apply to any Wakf property in Bengal, has been ins.: *see* s. 81, *ibid.*

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 83; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 511 and 830.

AND WHEREAS it is expedient to constitute an Indian Red Cross Society with a view to the continuation in peace time, on a wider basis and with a wider purpose, of the work carried on by the said Committee during the war, and to provide for the affiliation therewith of other societies and bodies having similar objects;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Red Cross Society Act, 1920.

(*2*) It extends[1] to [2][~~all~~ the ~~Provinces~~ whole of India], including [3]* * the Sonthal Parganas and the District of Angul.

Constitution of Indian Red Cross Society.

2. There shall be constituted by this Act a Society to be known as the Indian Red Cross Society (hereinafter called the Society). The first members of the Society shall be nominated by persons who immediately before the commencement of this Act were members of the Joint War Committee, Indian Branch, of the Order of St. John of Jerusalem in England and the British Red Cross Society (hereinafter called the Committee) at a meeting to be summoned and held for that purpose in accordance with the usual practice of the Committee within three months from the commencement of this Act. The number of members to be so nominated shall not be less than twenty-five or more than fifty.

Appointment of Managing Body.

3. The Committee shall also at the same meeting appoint from among the members nominated under section 2 the Managing Body of the Society (hereinafter called the Managing Body) the members of which shall hold office as such until a new Managing Body is appointed as hereinafter provided. The number of members of the Managing Body shall not be less than ten or more than thirty.

Incorporation.

4. The first members of the Society and all persons who may hereafter become members thereof so long as they continue so to be, are hereby constituted a body corporate under the name of the Indian Red Cross Society, and the said body shall have perpetual succession and a common seal with power to hold and acquire property, moveable and immoveable, and shall sue and be sued by the said name.

Power to make rules.

5. The Managing Body shall, within six months from the commencement of this Act and subject to the condition of previous publication, make rules[4] for the management, control and procedure of the Society. The rules may provide among other matters for the following, namely:—

(*a*) the conditions of membership of the Society;

(*b*) the appointment and term of office of members of the Managing Body;

(*c*) the choice of representatives on international and other Committees;

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[1] This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] Subs. by the A. O. 1948 for "the whole of British India".

[3] The words "British Baluchistan" rep. by the A. O. 1948.

[4] For such rules, *see* Gen. R. and O., Vol. IV, p. 564.

Sec.1 - For sub-sec. (2) substitutste:-

(2) It extends to the whole of India except the State of Jammu and Kashmir, and to the extent to which it sprovisions relate to any matter in respect of which Parliament has power to make laws for that State, it extends also to that State.

(*d*) representation on the Managing Body of Provincial and State Branch Committees and affiliated societies and bodies;

(*e*) the constitution of Finance, Medical and other Committees and the delegation of powers to them; and

(*f*) the regulation of the procedure generally of the Society and Managing Body.

Dissolution and transfer of property of Joint War Committee.

6. Upon the nomination of the first members of the Society and the appointment of the Managing Body—

(*a*) the Committee shall be dissolved;

(*b*) all property, moveable or immoveable, of or belonging to the Committee shall vest in the Society and shall be applied by the Managing Body to the objects and purposes hereinafter set out; and

(*c*) all the debts and liabilities of the Committee shall be transferred to the Society, and shall thereafter be discharged and satisfied by it out of the aforesaid property, and each and every member of the Committee shall be wholly discharged therefrom.

Purposes to which funds of Society may be applied.

7. Notwithstanding anything contained in any appeal for subscriptions or gifts to or for the purposes of the Committee, the Managing Body may in its discretion apply—

(*a*) either the corpus of the income or any part of such corpus or income of any property, vested in it under clause (*b*) of section 6 for the relief of sickness, suffering or distress caused by the operation of war in India or in any other country in which Expeditionary Forces from India may, from time to time, be employed and for purposes cognate to that object and in maintaining Red Cross Depots for military purposes;

(*b*) in accordance with the provisions of section 8 the income only of any such property but not the corpus or any part thereof for the relief of sickness or suffering in India, whether due to the operation of war or not, or in pursuance of any of the objects set forth in the First Schedule.

Constitution of Branch Committees.

[1][**8.** (1)] If Branch Committees consisting of members of the Society are constituted in any of the ~~Provinces~~, States ~~and other parts of India~~ [2][and Pakistan] specified in the Second Schedule, then, subject to the requirements of the Managing Body for the purposes of clause (*a*) of section 7 and any provision for expenses of management, the income of the property which has been vested in the Society under clause (*b*) of section 6 shall be distributed annually among such Branch Committees in the proportion shown in the said Schedule, to be expended by them and at their discretion upon all or any of the objects referred to in clause (*b*) of section 7.

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[1] The original s. 8 was re-numbered as sub-section (1) of that section by s. 2 of the Indian Red Cross Society (Amendment) Act, 1937 (17 of 1937).

[2] Ins. by the A. O. 1948.

[1][(2) The [2][Central Government] may, by notification in the Gazette of India, direct that any ~~Province,~~ State ~~or other part of India~~ [3][or Pakistan] specified in the first column of the Second Schedule shall be excluded therefrom or that any Province, State or other part of India [3][or Pakistan] not specified therein shall be included therein and that the percentages specified in the third column of the said Schedule shall be varied as required by any such exclusion or inclusion.

(3) On the issue of a notification under sub-section (2) the Second Schedule shall be deemed to be amended in accordance with such notification.

(4) No notification under subsection (2) shall be made without the consent of every Branch Committee constituted in the ~~Provinces,~~ States ~~and other parts of India~~ [3][and Pakistan] for the time being included in the Second Schedule.]

Affiliation of other Societies.

9. The Managing Body may also affiliate to the Society any other society or body having all or any of the objects and purposes referred to in section 7, and may provide for the allocation and distribution of funds, through such society or body, to or for any such objects or purposes.

Decision of Managing Body as to purposes final.

10. The Manager Body shall have authority to determine in all cases what matters properly fall within the scope of clause (*b*) of section 7, and its decision in all such matters shall be binding on all Branch Committees and affiliated societies or bodies.

Receipt and use of gifts.

11. The Managing Body may also receive and hold gifts of whatsoever description either for the general purposes of the Society or for any particular purpose for which the corpus or income of the property vested in it under clause (*b*) of section 6 may be applied under the provisions of section 7, and on receipt of such gifts may, subject to the provisions of rules made under section 5, apply the same to such purposes, either directly or through Branch Committees, or societies or bodies affiliated under section 9.

Powers of Branch Committees.

12. Subject to the provisions of rules made under section 5, each Branch Committee shall have all power to regulate its own procedure and constitution, to receive gifts and expend all monies received by it for its purposes, either directly or through other societies or bodies.

FIRST SCHEDULE.

(*See* section 7.)

Objects to which the funds of the Society may be applied.

(1) The care of the sick and wounded men of ~~His Majesty's Forces~~ the Arme forces of the union whether still on the active list or demobilised.

(2) The care of those suffering from tuberculosis, having regard in the first place to soldiers and sailors, whether they have contracted the disease on active service or not.

(3) Child welfare.

(4) Work parties to provide the necessary garments, etc., for hospitals and health institutions in need of them.

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[1] Sub-sections (2) to (4) were added by the Indian Red Cross Society (Amendment) Act, 1937 (17 of 1937), s. 2.

[2] Subs. by the A. O. 1948 for "G. G. in C."

[3] Ins. by the A. O. 1948.

(*5*) Assistance required in all branches of nursing, health and welfare work, ancillary to any organisations which have or may come into being in India and which are recognised by the Society.

(*6*) Home Service Ambulance Work.

(*7*) Provision of comforts and assistance to members of His Majesty's Forces, whether on the active list or demobilised.

(*8*) Such other cognate objects as may, from time to time, be approved by the Society.

(*9*) The expenses of management of the Society and its branches and affiliated societies and bodies.

(*10*) The representation of the Society on or at International or other Committees formed for furthering objects similar to those of the Society.

[1] [SECOND SCHEDULE.

(*See* section 8.)

Statement showing contributions made by Provinces and States in India to the Central "Our Day" Fund and the approximate percentage of their claim on the interest on the Capital Fund of the Joint War Committee, Indian Branch.

Names of Provinces, States, etc.	Amount of contribution.	Approximate percentage of claim on the interest of Capital Fund.
	Lakhs.	
United Provinces	15	18·70
Bombay	10	8·15
Western India States		3·14
Sind		1·25
[2] [West Bengal East Bengal	10	12·54
East Punjab West Punjab	11	13·47]
[3] [Central Provinces	8½	4·48
Bihar		5·16
Eastern States		·97]
Orissa	1	1·08
Madras	5¾	7·25
[4] [Rajputana	4	4·20
Ajmer-Merwara		·67]
Central India	3½	3·80
Gwalior	1⅓	1·62
North-West Frontier	2¼	2·70
Hyderabad (Deccan)	3	3·80
Assam	1¼	1·62
Baluchistan	1¼	1·62
Mysore	1¼	1·62
Kashmir	1	1·08
Baroda	½	·54
Delhi	2/5	·54]

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[1] Subs. by the Indian Red Cross Society (Amendment) Act, 1937 (17 of 1937), s. 3, for the original Schedule, as amended by the A. O. 1937.

[2] Subs. by the A. O. 1948 for the former entries relating to Bengal and Punjab.

[3] Subs. for the former entries relating to C. P. and Bihar by notification No. 1097, dated the 20th June, 1942, *see* Gazette of India, 1942, Pt. I, p. 1072.

[4] Subs. for the former entry relating to Rajputana by notification No. 1070, dated the 7th August, 1943, *see* Gazette of India, 1943, Pt. I, p. 888.

Repealed by XLVI/50

THE INDIAN ARMY (SUSPENSION OF SENTENCES) ACT, 1920.

Act No. XX of 1920.[1]

[23rd March, 1920.]

An Act to consolidate and amend the law relating to the suspension of sentences passed by Courts-martial under the Indian Army Act, 1911.

Whereas it is expedient to consolidate and amend the law relating to the suspension of sentences of imprisonment or transportation passed by Courts-martial on persons subject to the Indian Army Act, 1911; It is hereby enacted as follows:— VIII of 1

Short title and construction.

1. This Act may be called the Indian Army (Suspension of Sentences) Act, 1920, and shall be construed as one with the principal Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "committed" means committed to prison or to confinement in military custody;

(*b*) "competent military authority" means a superior military authority, or any general or other officer not below the rank of field officer duly authorised by a superior military authority;

(*c*) "imprisonment" includes confinement in military custody;

(*d*) "principal Act" means the Indian Army Act, 1911; VIII of 19

(*e*) "sentence" means a sentence of transportation or imprisonment, whether originally passed on a person subject to the principal Act, or passed by way of reduction or commutation; and "sentenced" has the corresponding meaning; and

(*f*) "superior military authority" means the Commander-in-Chief in India or any officer empowered under the principal Act to convene general Courts-martial or summary general Courts-martial.

Suspension of sentences.

3. (*1*) Where a person subject to the principal Act is sentenced, the confirming officer when confirming the sentence, or, in the case of a sentence which does not require confirmation, the officer holding the trial or the President of the Court-martial when passing sentence may, nothwithstanding anything in the principal Act, direct that such person be

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 124; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 843 and 955.

not committed until the orders of a superior military authority have been obtained.

(2) A superior military authority may, in the case of any such offender so sentenced,—

(*a*) direct that, until his orders have been obtained, such offender shall not be committed; and

(*b*) suspend the sentence whether or not the offender has already been committed.

(3) Where, in accordance with any order passed under sub-section (2), a sentence is suspended, the offender shall, whether he has been committed or not, forthwith be released.

Calculation of periods of sentence under suspension.

4. Any period during which a sentence is under suspension shall be reckoned as part of the term of such sentence.

Power to set aside suspension or order remission.

5. A superior military authority may, at any time whilst a sentence is suspended under this Act, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

Periodical review of suspended sentences.

6. Where a sentence has been suspended under this Act, the case may at any time, and shall at intervals of not more than four months, be recosidered by a competent military authority, and if, on any such reconsideration, it appears to such authority that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall, if he is not also a superior military authority, refer the case to a superior military authority.

Procedure on further sentence of offender whose sentence is suspended.

7. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed on the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of three months or less and is not suspended under this Act, the offender shall be committed on that sentence only, and the previous sentence shall (subject to any order which may be passed under section 5 or section 6) continue to be suspended.

X LVI/50

Saving of section 112, Act VIII of 1911.

8. The powers conferred by this Act shall be in addition to, and not in derogation of, any powers as to the mitigation, remission or commutation of sentences conferred by the principal Act, and a superior military authority shall, as regards persons subject to that Act, be an authority having power to mitigate, remit or commute sentences under section 112 of that Act.

Provision as to dismissal.

9. Where in addition to any other sentence the punishment of dismissal has been awarded by a Court-martial, and such other sentence is suspended under this Act, then, notwithstanding anything contained in the principal Act or in any rules made thereunder, such dismissal shall not take effect until so ordered by a superior military authority:

Provided that, if a sentence is remitted under this Act, the punishment of dismissal shall also be remitted.

10. *[Repeal of Act IV of 1917.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE INDIAN RIFLES ACT, 1920.

ACT No. XXIII OF 1920.[1]

[31st August, 1920.]

An Act to provide for the better discipline of Police officers enrolled in Military Police or Rifle Battalions.

WHEREAS it is expedient to provide for the better discipline of Police officers enrolled under local Acts in Military Police or Rifle Battalions; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Rifles Act, 1920.

Police officers subject to discipline and penalties prescribed in local Acts wherever serving.

2. All Police officers enrolled under the provisions of any local Military Police or Rifles Act shall be subject to the discipline and penalties prescribed by such Act, wherever serving in India.

THE IDENTIFICATION OF PRISONERS ACT, 1920.

ACT No. XXXIII OF 1920.[2]

[9th September, 1920.]

An Act to authorise the taking of measurements and photographs of convicts and others.

WHEREAS it is expedient to authorise the taking of measurements and photographs of convicts and others; It is hereby enacted as follows:—

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 158; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1001 and 1082.

[2] For Statement of Objects and Reasons *see* Gazette of India, 1920, Pt. V, p. 162; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1037 and 1143.
This Act has been amended in its application to Bombay by Bombay Acts 11 of 1922, 4 of 1935 and 21 of 1935.

1. (*1*) This Act may be called the Identification of Prisoners Act, 1920; and

Short title and extent.

(*2*) It extends to [1][all the whole ~~Provinces~~ of India], ~~including~~ [2]* * ~~the Sonthal Parganas and the district of Angul~~[3]. except Part B States

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(*a*) "measurements" include finger impressions and foot-print impressions;

(*b*) "police officer" means an officer in charge of a police-station, a police officer making an investigation under Chapter XIV of the Code of Criminal Procedure, 1898[4], or any other police officer not below the rank of sub-inspector; and

V of 1898.

(*c*) "prescribed" means prescribed by rules made under this Act.

3. Every person who has been—

Taking of measurements, etc., of convicted persons.

(*a*) convicted of any offence punishable[5] with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or

(*b*) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1898,

V of 1898.

shall, if so required, allow his measurements and photograph to be taken by a police officer in the prescribed manner.

[6]**4.** Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

Taking of measurements, etc., of non-convicted persons.

5. If a Magistrate is satisfied that, for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898[4], it is

V of 1898.

Power of Magistrate to order a

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[1] Subs. by the A. O. 1948 for "the whole of British India".

[2] The words "British Baluchistan" rep. by the A. O. 1948.

[3] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[4] In the application of the Act to Bombay, certain words have been ins. here by the Identification of Prisoners (Bombay Amendment) Act, 1922 (Bom. II of 1922), ss. 2 and 3, respectively.

[5] In the application of the Act to Bombay, certain words have been ins. here by the Identification of Prisoners (Bombay Second Amendment) Act, 1935 (Bom. 21 of 1935), s. 2.

[6] In the application of the Act to Bombay, a different section has been subs. for this section by the Identification of Prisoners (Bombay Amendment) Act, 1935 (Bom. 4 of 1935), s. 2, and further amended by Bom. Act 21 of 1935, s. 3.

person to be measured or photographed.

expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer:

Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class:

Provided further that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

Resistance to the taking of measurements, etc.

6. (*1*) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(*2*) Resistance to or refusal to allow the taking of measurements or photographs under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code.

XLV of 1860.

Destruction of photographs and records of measurements, etc., on acquittal.

7. Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional Officer[1] for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

Power to make rules.

8. (*1*) The [2][~~Provincial~~ State Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(*a*) restrictions on the taking of photographs of persons under section 5;

(*b*) the places at which measurements and photographs may be taken;

(*c*) the nature of the measurements that may be taken;

(*d*) the method in which any class or classes of measurements shall be taken;

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[1] In the application of the Act to Bombay, certain words have been ins. here by s. 4, *ibid.*

[2] Subs. by the A. O. 1937 for "L. G."

(*e*) the dress to be worn by a person when being photographed under section 3; and

(*f*) the preservation, safe custody, destruction and disposal of records of measurements and photographs.

Bar of suits.

9. No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.

THE INDIAN PASSPORT ACT, 1920.

ACT NO. XXXIV OF 1920.[1]

[*9th September, 1920.*]

An Act to take power to require passports of persons entering [2]~~[the~~ India ~~Provinces of India~~].

L.S.G.

WHEREAS it is expedient to take power to require passports of persons entering [2][the Provinces of India]; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Indian Passport Act, 1920.

(*2*) It shall extend to [3]~~[all~~ the whole ~~Provinces~~ of India], ~~including~~ [4]* * ~~the Sonthal Parganas and the district of Angul~~[5].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"entry" means entry by water, land or air;

"passport" means a passport for the time being in force issued or renewed by the prescribed authority and satisfying the conditions prescribed relating to the class of passports to which it belongs; and

"prescribed" means prescribed by rules made under this Act.

Power to make rules.

India **3.** (*1*) The [6][Central Government] may make rules[7] requiring that persons entering [3]~~[the Provinces]~~ shall be in possession of passports, and for all matters ancillary or incidental to that purpose.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 54; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 252, and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 397, 1003 and 1144.

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "British Baluchistan" rep. by the A. O. 1948.

[5] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] For such rules, *see* Gen. R. & O., Vol. IV, p. 570.

(2) Without prejudice to the generality of the foregoing power such rules may—

(a) prohibit the entry into [1][~~the Provinces~~] India or any part thereof of any person who has not in his possession a passport issued to him;

(b) prescribe the authorities by whom passports must have been issued or renewed, and the conditions with which they must comply, for the purposes of this Act; and

(c) provide for the exemption, either absolutely or on any condition, of any person or class of persons from any provision of such rules.

(3) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

(4) All rules made under this section shall be published in the [2][Official Gazette], and shall thereupon have effect as if enacted in this Act.

Power of arrest.

4. (1) Any officer of police, not below the rank of a sub-inspector, and any officer of the Customs Department empowered by a general or special order of the [3][Central Government] in this behalf may arrest without warrant any person who has contravened or against whom a reasonable suspicion exists that he has contravened any rule or order made under section 3.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station and the provisions of section 61 of the Code of Criminal Procedure, 1898, shall, so far as may be, apply in the case of any such arrest. V of 1898.

Power of removal.

5. The [3][Central Government] may, by general or special order, direct the removal of any person from [1][~~the Provinces~~] India who, in contravention of any rule made under section 3 prohibiting entry into [1][~~the Provinces~~] India without passport, has entered therein, and thereupon any [4][officer of the Crown] shall have all reasonable powers necessary to enforce such direction.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "Gazette of India".

[3] Subs. by the A. O. 1937 for "L. G."

[4] Subs. by the A. O. 1937 for "officer of Govt."

THE BASEL MISSION TRADING COMPANY ACT, 1920.

ACT NO. XXXV OF 1920.[1]

[*9th September, 1920.*]

An Act to validate certain Indentures relating to property formerly held by the Basel Mission Trading Company, and to provide for the incorporation of Trustees and for other purposes.

WHEREAS, by an order made by the Governor General in Council in exercise of the powers conferred by section 7 of the Enemy Trading Act, 1916, and bearing date the twenty-second day of May, 1919, certain property was vested in the Custodian of Enemy Property for Madras and Coorg; and

X of 1916.

Whereas in pursuance of an order made by the Governor General in Council, dated the twenty-fifth day of August, 1919, the said Custodian, by an indenture, dated the twenty-sixth day of January, 1920, and referred to in the Second Schedule as Indenture A, transferred the said property to certain trustees on trusts therein declared; and

Whereas by divers mesne appointments the said property became vested upon the said trusts in the persons named in the First Schedule; and

Whereas the persons named in the First Schedule (hereinafter referred to as the said trustees) have, with the approval of the Governor General in Council, by an indenture, dated the twenty-first day of August, 1920, and referred to in the said Schedule as Indenture B, transferred the said property to the Commonwealth Trust, Limited, a corporation incorporated in England, for the purposes and upon the terms and conditions in the said indenture set out; and

Whereas doubts have arisen and may arise as to the validity of certain matters in connection with the above-mentioned transfers; and

Whereas it is expedient to terminate such doubts and to constitute the said Trustees a body corporate in order that the intention of the said transfers may be fully carried out;

It is hereby enacted as follows:—

1. This Act may be called the Basel Mission Trading Company Act, Short title.

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After sec. 5 of Act XXXIV of 1920, the following section shall be added, namely:-

"6. Application of Act to Part B States: In the application of this Act to any Part B State, any reference to an enactment in force in the Part A States and Part C States but not in force in the Part B State shall be construed as a reference to the corresponding law, if any, of that State".

THE BASEL MISSION TRADING COMPANY ACT, 1920.

ACT NO. XXXV OF 1920.[1]

[*9th September, 1920.*]

An Act to validate certain Indentures relating to property formerly held by the Basel Mission Trading Company, and to provide for the incorporation of Trustees and for other purposes.

WHEREAS, by an order made by the Governor General in Council in exercise of the powers conferred by section 7 of the Enemy Trading Act, 1916, and bearing date the twenty-second day of May, 1919, certain property was vested in the Custodian of Enemy Property for Madras and Coorg ; and

X of 1916.

Whereas in pursuance of an order made by the Governor General in Council, dated the twenty-fifth day of August, 1919, the said Custodian, by an indenture, dated the twenty-sixth day of January, 1920, and referred to in the Second Schedule as Indenture A, transferred the said property to certain trustees on trusts therein declared ; and

Whereas by divers mesne appointments the said property became vested upon the said trusts in the persons named in the First Schedule ; and

Whereas the persons named in the First Schedule (hereinafter referred to as the said trustees) have, with the approval of the Governor General in Council, by an indenture, dated the twenty-first day of August, 1920, and referred to in the said Schedule as Indenture B, transferred the said property to the Commonwealth Trust, Limited, a corporation incorporated in England, for the purposes and upon the terms and conditions in the said indenture set out ; and

Whereas doubts have arisen and may arise as to the validity of certain matters in connection with the above-mentioned transfers ; and

Whereas it is expedient to terminate such doubts and to constitute the said Trustees a body corporate in order that the intention of the said transfers may be fully carried out ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Basel Mission Trading Company Act, 1920.

Incorporation of Trustees.

2. (*1*) The persons named in the First Schedule and their predecessors in office shall be deemed to have been validly appointed trustees of the indenture referred to in the Second Schedule as Indenture A, and together with their successors in office, are hereby constituted a body corporate with perpetual succession and a common seal and may sue and be sued by the corporate name of the Mission Trust of Madras.

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[1] For Statement of Objects and Reasons, *see* the Gazette of India, 1920, Pt. V, p. 227 ; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 1083 and 1144.

(2) For the purposes of the appointment of the successors to the persons named in the First Schedule in their office as such trustees, the provisions of the Indian Trusts Act, 1882, shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body. II of 1882.

Validation of deeds, etc.

3. Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Second Schedule are hereby declared to be validly made and the property transferred or purporting to be transferred therein shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under either of the said indentures are validated and confirmed, and every obligation imposed or purporting to be imposed on any person mentioned in either of the said indentures shall be binding in law on the person named therein, whether such person is or is not a party to such indenture.

Restriction of suits against the trustees and the Commonwealth Trust, Limited.

4. No suit or other legal proceeding shall be brought against the said trustees or the Commonwealth Trust, Limited, by or on behalf of any creditor, shareholder or bondholder of the Basel Mission Trading Company or any other person whatsoever for the payment of any sum due or alleged to be due by the said Company, unless the consent of the [1][Central Government] has first been obtained.

THE FIRST SCHEDULE.

(*See* section 2.)

John Anderson Thorne, Secretary to the Board of Revenue (Land Revenue), Madras.

Paul Appaswami, Judge of the Court of Small Causes, Madras.

Muthiah David Devadoss, Barrister-at-Law, Madras.

Duncan Gordon MacNaughton Leith, Secretary, German Missions Committee of the National Missionary Council.

Anthony Watson Brough of the London Mission, Erode, Madras.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

THE SECOND SCHEDULE.

(*See* sections 2 and 3.)

INDENTURE A.

Date.	Parties.	Short effect.
26th January, 1920. Registered at Madras, on 25th June, 1920, being Serial No. 2035 of 1920 in Registration Book No. I of the office of the Registrar of Madras, Chingleput.	Daniel Chamier, Custodian of Enemy Property, Madras and Coorg, (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Secretary to the Board of Revenue (Land Revenue), Madras, Arthur Davies, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith of the other part.	Being a transfer by the Custodian to the Trustees on the trusts therein mentioned of the undertaking and of all property moveable or immoveable in the Madras Presidency and Coorg formerly belonging to or held in trust for, the Company or Society commonly known in India as the Basel Mission Trading Company and which became vested in the Custodian by Order of the Governor-General in Council, dated 22nd May, 1919.

INDENTURE B.

Date.	Parties.	Short effect.
21st August, 1920. Registered at Madras, on 21st August, 1920, being Serial No. 2825 of 1920 in Registration Book No. 1 of the office of the Registrar of Madras, Chingleput.	John Anderson Thorne, Secretary to the Board of Revenue, Madras, Paul Appaswami, the Hon'ble Mr. Muthiah David Devadoss, the Reverend Duncan Gordon MacNaughton Leith and the Reverend Anthony Watson Brough, (therein referred to as the Trustees) of the one part and the Commonwealth Trust, Limited, a company registered under the English Companies Acts, (therein referred to as the Company) of the other part.	Being a transfer on the terms and conditions and subject to the reservations therein mentioned by the Trustees to the Company of the undertaking and property comprised in the deed, dated 26th January, 1920 and referred to above as Indenture A.

(Preliminary. Part I.—Amendment of the Indian Penal Code and Code of Criminal Procedure. Part II.—Election Inquiries and other matters.)

THE INDIAN ELECTIONS OFFENCES AND INQUIRIES ACT, 1920.

ACT NO. XXXIX OF 1920.[1]

Repealed by XLIII/51

[*14th September, 1920.*]

An Act to provide for the punishment of malpractices in connection with elections, and to make further provisions for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act [2][or the Government of India Act, 1935] or the constitution.

WHEREAS it is expedient to provide for the punishment of malpractices in connection with elections, and to make further provision for the conduct of inquiries in regard to disputed elections to legislative bodies constituted under the Government of India Act [2][or the Government of India Act, 1935] or the constitution; It is hereby enacted as follows:— 26 Geo. 5. c. 2.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Elections Offences and Inquiries Act, 1920; and

(2) It extends to [3][all the ~~Provinces~~ whole of India] except Part B States

PART I.

AMENDMENT OF THE INDIAN PENAL CODE AND CODE OF CRIMINAL PROCEDURE.

[*Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.*]

PART II.

ELECTION INQUIRIES AND OTHER MATTERS.

Definitions.

4. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "costs" means all costs, charges and expenses of, or incidental to, an inquiry;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 134; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 177, and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1004 and 1146.

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[2] Ins. by the A. O. 1937.

[3] Subs. by the A. O. 1948 for "the whole of British India".

(*Part II.—Election inquiries and other matters.*)

[1][(*b*) "election" means an election to a Chamber of any Legislature or Legislative Council constituted under the Government of India Act or the Government of India Act, 1935 or to a House of Parliament or of a State Legislature under the constitution.

26 Geo. 5, c. 2.

(*c*) "inquiry" means an inquiry in respect of an election by Commissioners appointed for that purpose by the [2][Governor General or Governor] or by an election tribunal appointed by the Election Commissioner under the constitution;

(*d*) "pleader" means any person entitled to appear and plead for another in a Civil Court, and includes an advocate, a vakil, and an attorney of a High Court.

(c) 'Commissioners' includes an election tribunal appointed by the Election Commissioner under the constitution

Powers of Commissioners.

5. Commissioners appointed to hold an inquiry shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters:—

V of 1908.

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

XL III/51

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to them to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

V of 1898.

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the Commissioners' jurisdiction shall be the limits of the Province in which the election was held.

Application of Act I of 1872 to inquiries.

I of 1872.

6. The provisions of the Indian Evidence Act, 1872, shall, subject to the provisions of this Act, be deemed to apply in all respects to an inquiry.

Documentary evidence.

7. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

Obligation of witness to answer any certificate of indemnity.

8. (*1*) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will criminate or may tend, directly or indirectly, to criminate him; or that it will expose, or tend, directly or

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[1] Subs. by the A.O. 1937 for the original clause.

[2] Subs. by the A. O. 1937 for "Governor-General, Governor or Lieutenant Governor".

(Part II.—Election inquiries and other matters.)

indirectly, to expose him to a penalty or forfeiture of any kind:

Provided that—

(*i*) no person who has voted at an election shall be required to state for whom he has voted; and

(*ii*) a witness who, in the opinion of the Commissioners, has answered truly all questions which he has been required by them to answer shall be entitled to receive a certificate of indemnity, and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IXA of the Indian Penal Code arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding. XLV of 1860.

x L111/57

(*2*) Nothing in sub-section (*1*) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any law or any rule having the force of law.

Appearance by pleader.

9. Any appearance, application or act before the Commissioners may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Commissioners so direct, be made by the party in person.

Expenses of witnesses.

10. The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commissioners to such person, and shall, unless the Commissioners otherwise direct, be deemed to be part of the costs.

Costs and pleaders' fees, etc.

11. (*1*) Costs shall be in the discretion of the Commissioners, and the Commissioners shall have full power to determine by and to whom and to what extent such costs are to be paid and to include in their report all necessary recommendations for the purposes aforesaid. The Commissioners may allow interest on costs at a rate not exceeding six per cent. per annum, and such interest shall be added to the costs.

(*2*) The fees payable by a party in respect of fees of his adversary's pleader shall be such fees as the Commissioners may allow.

Execution of orders as to costs.

12. Any order made by the [1][Central Government] or [2][Provincial Government] [3]* * * on the report of the Commissioners regarding the costs of the inquiry may be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or, where such place is within the local limits of the ordinary original civil jurisdiction of a chartered High Court, before the Court of Small Causes having jurisdiction there, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

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[1] Subs. by the A. O. 1937 for "Governor-General".
[2] Subs. by the A. O. 1937 for "Governor".
[3] The words "or Lieutenant Governor" rep. by the A. O. 1937.

XLIII/51

Disqualification of persons found guilty of election offences.

13. Any person who has been convicted of an offence under section 171E or 171F of the Indian Penal Code or has been disqualified from exercising any electoral right, for a period of not less than five years, on account of malpractices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from—

XLV of 1860.

(*a*) being appointed to, or acting in, any judicial office ;

(*b*) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;

(*c*) being elected or sitting or voting as a member of any local authority ; or

(*d*) being appointed or acting as a trustee of a public trust:

[1][Provided that the Governor-General, in the case of an election to a Chamber of the Federal Legislature or the Indian Legislature, and the Governor, in the case of an election to a Chamber of a Provincial Legislature, may [2]* * exempt any such person from such disqualification.]

Maintenance of secrecy of voting.

14. (*1*) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(*2*) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

Special provision as to elections under Government of India Act, 1935.

[3][**15.** As respects elections to a Chamber of a Legislature constituted under the Government of India Act, 1935, this Part of this Act shall have effect subject to any relevant provision of any Order in Council or rules made under that Act in relation to such elections.]

26 Geo. 5, c. 2.

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[1] Subs. by the A. O. 1937 for the original proviso.
[2] The words "in his discretion" rep. by the A. O. 1947.
[3] Ins. by the A. O. 1937.

THE ALIGARH MUSLIM UNIVERSITY ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Definitions.

The University.

3. Incorporation.
4. Dissolution of the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and transfer of all property to the University.
5. Powers of the University.
6. Recognition of degrees.
7. Reserve funds.
8. University open to all races, creeds and classes.
9. Religious instruction.
10. Residence of students.
11. Teaching of the University.
12. Power to establish and maintain high schools and other institutions.
12A. Power to recognise colleges and schools.

The Lord Rector.

13. The Lord Rector.

The Visiting Board.

14. The Visiting Board.

Rectors.

15. Rectors.

Officers of the University.

16. Officers of the University.
17. The Chancellor.
18. The Pro-Chancellor.
19. The Vice-Chancellor.
20. [*Repealed.*]
21. Other officers.

SECTIONS.

Authorities of the University.

22. Authorities of the University.
23. The Court.
24. The Executive Council.
25. The Academic Council.
26. Other authorities of the University.

Statutes, Ordinances and Regulations.

27. Power to make statutes.
28. Statutes.
29. Power to make Ordinances.
30. Ordinances.
31. Regulations.

Admission and Examinations.

32. Admission to the University.
33. Examinations.

Annual Report and Accounts.

34. Annual Report.
35. Annual Accounts.

Supplementary Provisions.

36. Conditions of service of officers and teachers.
37. Provident and Pension Funds.
38. Filling of casual vacancies.
39. Proceedings of University authorities not invalidated by vacancies.
40. Power to remove difficulties.
41. [*Repealed.*]

THE SCHEDULE.

First Statutes of the University.

1. Rectors.
2. The Vice-Chancellor.
3. Powers of the Vice-Chancellor.
4. The Pro-Vice-Chancellor.
5. The Treasurer.
6. The Registrar.
7. The Proctor and Librarian.

SECTIONS.

8. The Court.
9. The First Court.
10. Retirement of Foundation Members.
11. Election of ordinary members.
12. General provisions as to Members of the Court.
13. Meetings of the Court.
14. Powers in respect to granting and withdrawing degrees.
15. The Executive Council.
16. Powers of the Executive Council.
17. The Academic Council.
18. Powers of the Academic Council.
19. Departments of Studies.
20. Appointments.
21 Register of graduates.
22. Convocation.
23. Committees.
24. Acting President of meetings.
25. Resignations.
26. Re-election.

THE ANNEXURE.—Foundation Members of the First Court.

ACT XL OF 1920.[1]

[*14th September, 1920.*]

An Act to establish and incorporate a teaching and residential Muslim University at Aligarh.

WHEREAS it is expedient to establish and incorporate a teaching and residential Muslim University at Aligarh, and to dissolve the Societies registered under the Societies' Registration Act, 1860, which are respectively known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and to transfer to and vest in the said University all properties and rights of the said Societies and of the Muslim University Foundation Committee ; XXI of 1860.

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Aligarh Muslim University Act, 1920.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 147 ; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 236, and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1057, 1105 and 1178.

(*2*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions.

2. In this Act, and in all Statutes made hereunder, unless there is anything repugnant in the subject or context,—

(*a*) " Academic Council " means the academic Council of the University ;

(*b*) " Court " means the Court of the University ;

(*c*) " Executive Council " means the Executive Council of the University ;

(*d*) " Hall " means a unit of residence for students of the University, provided or maintained by the University ;

(*e*) " registered graduates " means graduates registered under the provisions of this Act ;

L XII/51

(*f*) " Statutes, " " Ordinances " and " Regulations " mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force ;

(*g*) " teachers " means Professors, Readers, Lecturers, Demonstrators and such other persons as may be appointed for imparting instruction in the University or a Hall ; and

(*h*) " University " means the Aligarh Muslim University.

The University.

Incorporation.

3. The First Chancellor, Pro-Chancellor and Vice-Chancellor who shall be the persons appointed in this behalf by a notification of the [2][Central Government] in the [3][Official Gazette], and the persons specified in the Schedule as the first members of the Court and all persons, who may hereafter become, or be appointed as, such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Aligarh Muslim University, and shall have perpetual succession and a Common Seal and shall sue and be sued by that name.

Dissolution of the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association, and transfer of all property

4. From the commencement of this Act—

(*i*) the Societies known as the Muhammadan Anglo-Oriental College, Aligarh, and the Muslim University Association shall be dissolved, and all property, moveable and immoveable, and all rights, powers and privileges of the said Societies and all property, moveable and immoveable, and all rights, powers and privileges of the Muslim University Foundation Committee shall be transferred to and vest in the University and shall be to the University.

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[1] This Act was brought into force from the 1st December, 1920, *see* Gen. R. and O., Vol. IV, p. 573; Gazette of India, 1920, Pt. I, p. 2213.

[2] Subs. by the A. O. 1937 for " G. G. in C."

[3] Subs. by the A. O. 1937 for " Gazette of India ".

applied to the objects and purposes for which the University is incorporated ;

(*ii*) all debts, liabilities and obligations of the said Societies and Committee shall be transferred to the University and shall thereafter be discharged and satisfied by it ;

(*iii*) all references in any enactment to either of the said Societies or to the said Committee shall be construed as references to the University ;

(*iv*) any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour either of the said Societies or of the said Committee shall, on the commencement of this Act, be construed as if the University was therein named instead of such Society or Committee ;

(*v*) subject to any orders which the Court may make, the buildings which belonged to the Muhammadan Anglo-Oriental College, Aligarh, shall continue to be known and designated by the names and styles by which they were known and designated immediately before the commencement of this Act ;

(*vi*) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the Muhammadan Anglo-Oriental College, Aligarh, shall hold employment in the University by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the Muhammadan Anglo-Oriental College, Aligarh, if this Act had not been passed.

Powers of the University.

5. The University shall have the following powers, namely:—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge ;

(2) to promote Oriental and Islamic studies and give instruction in Muslim theology and religion and to impart moral and physical training ;

(3) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(*a*) shall have pursued a course of study in the University, or [1][in an institution maintained under sub-section (*2*) of section 12 or admitted to the privileges of the University under section 12A, or]

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[1] Ins. by the Aligarh Muslim University (Amendment) Act, 1941 (17 of 1941), s. 2.

(*The University.*)

(*b*) are teachers in educational institutions,

under conditions laid down in the Statutes and Ordinances, and shall have passed the examinations of the University, under like conditions ;

(4) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes ;

(5) to grant such diplomas to and to provide such lectures and instruction for persons, not being members of the University, as the University may determine ;

(6) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine ;

(7) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University, and to appoint persons to such Professorships, Readerships, Lectureships and posts ;

(8) to institute and award Fellowships (including Travelling Fellowships), Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Ordinances ;

(9) to institute and maintain Halls for the residence of students of the University ;

(10) to demand and receive such fees and other charges as may be prescribed by the Ordinances ;

(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health ; and

(12) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University as a teaching and examining body, to cultivate and promote arts, science and other branches of learning, including professional studies, technology, Islamic learning and Muslim theology, and to promote the interests of its students.

Recognition of degrees.

6. The degrees, diplomas and other academic distinctions granted or conferred to or on persons by the University shall be recognised by [1][the Central and ~~Provincial~~ State Governments] as are the corresponding degrees, diplomas and other academic distinctions granted by any other University incorporated under any enactment.

Reserve funds.

7. The University shall invest and keep invested in securities in which trust funds may be invested in accordance with the law for the time being in force relating to trusts in [2][~~the Provinces~~ Part A States & Part C States] a sum of thirty lakhs of

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[1] Subs. by the A. O. 1948 for "any Govt. in British India" which had been subs. by the A. O. 1937 for "the Govt."

[2] Subs. by the A. O. 1948 for "British India".

(The University.)

rupees as a permanent endowment to meet the recurring charges of the University other than charges in respect of Fellowships, Scholarships, Prizes and rewards:

Provided that—

(1) any Government securities as defined in the Indian Securities Act, 1920, which may be held by the University shall, for the purposes of this section, be reckoned at their face value ; and **X of 1920.**

(2) the aforesaid sum of thirty lakhs shall be reduced by such sums as, at the commencement of this Act, the [1][Central Government] shall, by order in writing, declare to be the total capitalised value, for the purpose of this section—

(*a*) of all permanent recurring grants of money which have been made either to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee, by any Ruler of a State in India ; and

(*b*) of the total income accruing from immoveable property (not being land or buildings, in the occupation and use of the said College) which by the operation of this Act has been transferred to the University.

University open to all races, creeds and classes.

8. The University shall, subject to the provisions of this Act and the Ordinances, be open to all persons of either sex and of whatever race, creed or class:

Provided that special provision may be made by the Ordinances exempting women from attending at public lectures and tutorial classes and prescribing for them special courses of study.

Religious instruction.

9. The Court shall have power to make Statutes providing that instruction in the Muslim religion shall be compulsory in the case of Muslim students.

Residence of students.

10. Every student of the University shall reside either in a Hall or under such conditions as may be prescribed by the Ordinances.

Teaching of the University.

11. (*1*) All recognised teaching in connection with the University courses shall be conducted by and in the name of the University and shall include lecturing, laboratory work and other teaching conducted in the University by the teachers thereof in accordance with any syllabus prescribed by Regulations.

(*2*) Recognised teaching shall also include tutorial instruction given in the University or, under the control of the University, in Halls: provided that every student not residing in a Hall shall be attached to a

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[1] Subs. by the A. O. 1937 for "G. G. in C."

Hall for such tutorial instruction and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

(*3*) The authorities responsible for organising such teaching shall be prescribed by the Statutes.

(*4*) The courses shall be prescribed by the Ordinances.

Power to establish and maintain high schools and other institutions.

[1][**12.** (*1*) The University shall, subject to the Statutes, have power to establish and maintain high schools, within such limits in the Aligarh District as may be laid down in the Ordinances, for the purpose of preparing students for admission to the University, and may provide for instruction in the Muslim religion and theology therein.

(*2*) The University may also, with the sanction of the [2][Central Government] on the recommendation of the Visiting Board, and subject to the Statutes and Ordinances, establish and maintain, within such limits in the Aligarh District as may be laid down in the Ordinances, any other institution whose objects fall within the powers of the University as described in section 5.

Power to recognise colleges and schools.

12A. With the approval of the Academic Council and the sanction of the [2][Central Government] on the recommendation of the Visiting Board, and subject to the Statutes and Ordinances, the University may admit [3]* colleges and schools in the Aligarh District to such privileges of the University as it thinks fit.]

The Lord Rector.

The Lord Rector.

13. (*1*) The Governor General shall be the Lord Rector of the University.

(*2*) The Lord Rector shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories, and equipment, and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Lord Rector shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(*3*) The Lord Rector may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Court the views of the Lord Rector with such advice as the Lord Rector may be pleased to offer upon the action to be taken thereon.

(*4*) The Court shall communicate through the Vice-Chancellor to the

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[1] Ss. 12 and 12A were subs. by the Aligarh Muslim University (Amendment) Act, 1931 (18 of 1931), s. 2, for the original s. 12.

[2] Subs. by the A. O. 1937 for " G. G. in C. "

[3] The word " Intermediate " rep. by the Aligarh Muslim University (Amendment) Act, 1941 (17 of 1941), s. 3.

Lord Rector such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(*5*) Where the Court does not, within reasonable time, take action to the satisfaction of the Lord Rector, the Lord Rector may, after considering any explanation furnished or representation made by the Court, issue such directions as he may think fit, and the Court shall comply with such directions.

[1]* * * * *

The Visiting Board.

The Visiting Board.

14. [2][(*1*) The Visiting Board of the University shall consist of such members as the Governor-General [3]* * * may nominate.]

(*2*) The Visiting Board shall have the right through any of its members to inspect the University and to satisfy itself that the proceedings of the University are in conformity with the Act, Statutes and Ordinances. The Visiting Board shall in every case give notice to the University of its intention to inspect, and the University shall be entitled to be represented at such inspection.

(*3*) The Visiting Board may, by order in writing, annul any proceedings not in conformity with the Act, Statutes and Ordinances, provided that before making any such order the Board shall call upon the University to show cause why such order should not be made, and if any cause is shown within reasonable time, shall consider the same.

Rectors.

Rectors.

15. The persons specified in the Statutes shall be the Rectors of the University.

Officers of the University.

Officers of the University.

16. The following shall be officers of the University:—

(1) The Chancellor,
(2) The Pro-Chancellor,
(3) The Vice-Chancellor, [4][and]

[5]* * *

[6][(4)] Such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor.

17. (*1*) The successors to the first Chancellor shall be elected by the Court.

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[1] Sub-section (*6*), ins. by the A. O. 1937, rep. by the A. O. 1948.

[2] Subs. by the A. O. for the original sub-section. For notification nominating members of the Visiting Board, *see* Gazette of India, 1937, Pt. I, p. 1446.

[3] The words "exercising his individual judgment" rep. by the A. O. 1947.

[4] Ins. by the Aligarh Muslim University (Amendment) Act, 1945 (11 of 1945), s. 2 (with effect from 4-9-1945).

[5] Cl. (4) which read "The Pro-Vice-Chancellor, and" rep. by s. 2, *ibid.*

[6] Original cl. (5) renumbered (4) by s. 2, *ibid.*

(Officers of the University. Authorities of the University.)

(*2*) The Chancellor shall hold office for three years.

(*3*) The Chancellor shall, by virtue of his office, be the head of the University.

(*4*) The Chancellor shall, if present, preside at Convocations of the University held for conferring degrees and at meetings of the Court.

(*5*) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor.

18. (*1*) The successors to the first Pro-Chancellor shall be elected by the Court.

(*2*) The Pro-Chancellor shall hold office for three years.

(*3*) Casual vacancies in the office of the Pro-Chancellor shall be filled by the Chancellor on the recommendation of the Executive Council. The person so appointed shall hold office till the next annual meeting of the Court.

(*4*) The Pro-Chancellor shall, in the absence of the Chancellor, exercise the functions of the Chancellor.

The Vice-Chancellor.

19. (*1*) The successors to the first Vice-Chancellor shall be elected by the Court from among its members. Every such election shall be subject to the approval of the [1][Central Government].

(*2*) The Vice-Chancellor shall exercise such powers and perform such functions as may be prescribed by the Statutes.

20. *[The Pro-Vice-Chancellor.] Repealed by the Aligarh Muslim University (Amendment) Act, 1945 (XI of 1945), s. 3 (with effect from 4-9-1495).*

Other officers.

21. The powers of officers of the University other than the Chancellor, the Pro-Chancellor, [2][and] the Vice-Chancellor [3]* * * shall be prescribed by the Statutes and the Ordinances.

Authorities of the University.

Authorities of the University.

22. The following shall be the authorities of the University:—

(1) The Court,

(2) The Executive Council,

(3) The Academic Council, and

(4) Such other authorities as may be declared by the Statutes to be authorities of the University.

The Court.

23. (*1*) The Court shall consist of the Chancellor, the Pro-Chancellor and the Vice-Chancellor for the time being, and such other persons as may be specified in the Statutes:

Provided that no person other than a Muslim shall be a member thereof.

(*2*) The Court shall be the supreme governing body of the University and shall exercise all the powers of the University, not otherwise provided for by this Act, the Statutes, the Ordinances and the Regulations. It shall have power to review the acts of the Executive and the Academic Councils (save where such Councils have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances) and direct that necessary action be taken by the Executive or the Academic Council, as the case may be, on any recommendations of the Lord Rector.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Ins. by the Aligarh Muslim University (Amendment) Act, 1945 (11 of 1945), s. 4 (with effect from 4-9-1945).

[3] The words "and the Pro-Vice-Chancellor" rep. by s. 4, *ibid.*

(*3*) Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely:—

(*a*) of making Statutes and of amending or repealing the same ;
(*b*) of considering Ordinances ;
(*c*) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates ;
(*d*) of electing such persons to serve on authorities of the University and of appointing such officers as may be prescribed by this Act or the Statutes ; and
(*e*) of exercising such other powers and performing such other duties as may be conferred or imposed upon it by this Act or the Statutes.

The Executive Council.

24. The Executive Council shall be the executive body of the University. Its constitution and the term of office of its members and its powers and duties shall be prescribed by the Statutes.

The Academic Council.

25. (*1*) The Academic Council shall be the academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation of, and be responsible for the maintenance of standards of instruction, and for the education, examination, discipline and health of students, and for the conferment of degrees (other than honorary).

(*2*) The constitution of the Academic Council and the term of office of its members and its powers and duties shall be prescribed by the Statutes.

Other authorities of the University.

26. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University, shall be prescribed by the Statutes.

Statutes, Ordinances and Regulations.

Power to make Statutes.

27. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the conferment of honorary degrees and the appointment of Rectors ;
(*b*) the institution of Fellowships, Scholarships, Exhibitions, Medals and Prizes ;
(*c*) the terms of office, and the method and conditions of appointment of the officers of the University ;
(*d*) the designations and powers of officers of the University ;
(*e*) the constitution, powers and duties of the authorities of the University ;

(*f*) the classification and mode of appointment of teachers of the University ;

(*g*) the institution and maintenance of Halls ;

(*h*) the constitution of provident and pension funds for the benefit of the officers, teachers and servants of the University ;

(*i*) the maintenance of a register of registered graduates ;

(*j*) the instruction of Muslim students in the Muslim religion and theology;

(*k*) the establishment of [1][high schools and other institutions in accordance with the provisions of section 12]; and

(*l*) all matters which by this Act are to be or may be prescribed by Statutes.

Statutes.

28. (*1*) The first Statutes are those set out in the Schedule.

(*2*) The first Statutes may be amended, repealed or added to by Statutes made by the Court in the following manner :—

(*a*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may approve such draft and pass the Statute, or may reject it or return it to the Executive Council for re-consideration, either in whole or in part, together with any amendments which the Court may suggest.

(*b*) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court.

(*c*) No new Statute or amendment or repeal of an existing Statute shall have any validity until it has been submitted through the Visiting Board (which may record its opinion thereon) to the [2][Central Government], and has been approved by the latter, [3][which] may sanction, disallow or remit it for further consideration:

Provided that no Statute dealing with the instruction of Muslim students in the Muslim religion and theology shall require to be so submitted or approved.

Power to make Ordinances.

29. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the courses of study to be [4][pursued in] the University ;

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[1] Subs. by the Aligarh Muslim University (Amendment) Act, 1931 (18 of 1931), s. 3, for "Intermediate colleges and schools".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "who".

[4] Subs. by Act 18 of 1931, s. 4, for "laid down for all degrees and diplomas of".

(*b*) the conditions of the award of Fellowships, Scholarships, Exhibitions, Medals and Prizes ;

(*c*) the conditions under which students may be admitted to [1][courses of study and] examinations of the University, and shall be eligible for degrees and diplomas ;

(*d*) the admission of students to the University ;

(*e*) the terms of office and terms and manner of appointment and the duties of Examining Bodies, Examiners, and Moderators and the conduct of examinations ;

(*f*) the conditions of residence of students of the University, and the levying of fees for residence in Halls and of other charges ;

(*g*) the conditions under which women may be exempted from attendance at lectures and tutorial classes, and the prescription for them of special courses of study ;

(*h*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University ;

(*i*) the maintenance of discipline among the students of the University ;

[2][(*j*) the management of high schools and other institutions established under section 12 ;

(*k*) the supervision of [3]* colleges and schools admitted to privileges of the University under section 12A ; and]

[4][(*l*)] all matters which by this Act or the Statutes are to be or may be provided for by Ordinances.

Ordinances.

30. (*1*) The Executive Council or, in academic matters, the Academic Council may make Ordinances.

(*2*) The first Ordinances shall be framed as directed by the [5][Central Government], and shall receive such previous approval as [6][it] may direct.

(*3*) No new Ordinance, or amendment or repeal of an existing Ordinance shall have any validity until it has been submitted through the Court and the Visiting Board (which may record its opinion thereon) to the [5][Central Government], and has obtained the approval of the latter, [7][which] may sanction, disallow or remit it for further consideration.

[8]* * * * * *

(*4*) If any question arises between the Executive and the Academic Councils as to which has the power to make an Ordinance, either Council may represent the matter to the Visiting Board who shall refer the same to a tribunal consisting of three members, one of whom shall be nominated by the Executive Council, one by the Academic Council, and one shall be a Judge of a High Court nominated by the Lord Rector.

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[1] Subs. by the Aligarh Muslim University (Amendment) Act, 1931 (18 of 1931), s. 4, for " the degree or diploma courses and to the ".

[2] Subs. by s. 4, *ibid.*, for the original cl. (*j*).

[3] The word "Intermediate" rep. by the Aligarh Muslim University (Amendment) Act, 1943 (4 of 1943), s. 2.

[4] Original cl. (*k*) relettered (*l*) by Act 18 of 1931, s. 4.

[5] Subs. by the A. O. 1937 for " G. G. in C."

[6] Subs. by the A. O. 1937 for " he ".

[7] Subs. by the A. O. 1937 for " who ".

[8] The provisos to sub-section (*3*), ins. by Act 4 of 1943, s. 3, rep. by the Repealing and Amending Act, 1947 (2 of 1948).

Regulations.

31. (*1*) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(*a*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum ;

(*b*) providing for all matters which by this Act, the Statutes or the Ordinances, are to be prescribed by Regulations ; and

(*c*) providing for all other matters solely concerning such authorities or committees appointed by them not provided for by this Act, the Statutes and the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

Admission and Examinations.

Admission to the University.

32. (*1*) Admission of students to the University shall be made by an Admission Committee consisting of [1][the Vice-Chancellor] [2]* * * and such other persons as may be appointed by the Academic Council.

(*2*) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognised in accordance with the provisions of this section as equivalent to the Intermediate Examination, and possess such further qualifications as may be prescribed by the Ordinances.

[3][(*2A*) Students shall not be eligible for admission to the Intermediate classes in Arts and Science unless they have passed the Matriculation Examination of an Indian University incorporated by any law for the time being in force, or an examination recognised in accordance with the provisions of this section as equivalent to the Matriculation Examination, and possess such further qualifications as may be prescribed by the Ordinances.]

(*3*) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(*4*) The University shall not, save with the previous sanction of the [4][Central Government], recognise (for the purpose of admission to a course of study [1][in the University]) as equivalent to its own degrees, any degree conferred by any other University or as equivalent to the Intermediate [2][or Matriculation] Examination of an Indian University, any examination conducted by any other authority.

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[1] Subs. by the Aligarh Muslim University (Amendment) Act, 1945 (11 of 1945), s. 5, for " the Pro-Vice-Chancellor " (with effect from 4-9-1945).

[2] The words " the Principal of an Intermediate College who shall be selected by the Vice-Chancellor " rep. by the Aligarh Muslim University (Amendment) Act, 1931 (18 of 1931), s. 5.

[3] Ins. by s. 3, *ibid.*

[4] Subs. by the A. O. 1937 for " G. G. in C."

(*5*) Notwithstanding anything contained in this Act or the Ordinances, any student of the Muhammadan Anglo-Oriental College, Aligarh, who immediately before the commencement of this Act was studying for any examination of the Allahabad University higher than the Intermediate Examination shall be permitted to complete his course in preparation thereof. The University shall provide for such students instruction in accordance with the prospectus of studies of the Allahabad University and, notwithstanding anything contained in the Indian University Act, 1904, any such students may be admitted to the examinations of that University during a period not exceeding four years from the commencement of this Act. VIII of 1904.

Examinations.

33. (*1*) All arrangements for the conduct of examinations shall be made, and all examiners shall be appointed by the Academic Council in such manner as may be prescribed by the Ordinances.

(*2*) At least one examiner who is not [3][a teacher of or a person holding paid employment under] the University shall be appointed for each subject in a Department of Studies forming part of the course which is required for a University degree.

(*3*) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to prepare the results of the examinations and to report such results to the Executive Council for publication.

Annual Report and Accounts.

Annual Report.

34. The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

Annual accounts.

35. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall once at least every year and at intervals of not more than fifteen months be audited by auditors appointed by the Visiting Board.

(*2*) The annual accounts when audited shall be published in the [4][Official

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[1] Subs. by the Aligarh Muslim University (Amendment) Act, 1931 (18 of 1931), s. 5, for " for a degree ".

[2] Ins. by s. 5, *ibid.*

[3] Subs. by the Aligarh Muslim University (Amendment) Act, 1943 (4 of 1943), s. 4, for " a member or a teacher of ".

[4] Subs. by the A. O. 1937 for " Gazette of India and in the Local Official Gazette ".

Gazette], and a copy of the accounts, together with the auditors's report, shall be submitted through the Visiting Board to the Lord Rector.

(*3*) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action thereon as it thinks fit.

Supplementary Provisions.

Conditions of service of officers and teachers.

36. (*1*) Every salaried officer and teacher of the University shall be appointed on a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

(*2*) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned, be referred to a tribunal of arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visiting Board. The decision of the tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1899[1], and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly.

IX of 1899.

Provident and pension funds.

37. (*1*) The University shall constitute for the benefit of its officers, teachers and servants such provident and pension funds as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(*2*) Where such provident or pension fund has been so constituted, the [2][Central Government] may declare that the provisions of the Provident Funds Act, 1897[3], shall apply to such fund, as if it were a Government provident fund.

IX of 1897.

Filling of casual vacancies.

38. (*1*) Subject to any provision in this Act and in the Statutes, the Executive Council [4][shall appoint a person to fill a casual vacancy in the office of Vice-Chancellor]. [5][The person] so appointed shall hold office till the next meeting of the Court.

(*2*) Subject to the provisions of sub-section (*3*) of section 18, other casual vacancies in any office of any authority shall be filled up by the authority which has power to appoint to the office or authority: provided that when the Court is the appointing authority the casual vacancy shall be filled by the Executive Council, and the person so appointed shall hold office till the next meeting of the Court.

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[1] *See* now the Arbitration Act, 1940 (10 of 1940).

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] *See* now the Provident Funds Act, 1925 (19 of 1925).

[4] Subs. by the Aligarh Muslim University (Amendment) Act, 1945 (11 of 1945), s. 6, for "shall appoint persons to fill casual vacancies in the offices of Vice-Chancellor and Pro-Vice-Chancellor" (with effect from 4-9-1945).

[5] Subs. by s. 6, *ibid.*, for "Persons".

Proceedings of University authorities not invalidated by vacancies.

39. No act or proceeding of any authority of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Power to remove difficulties.

40. (*1*) If any difficulty arises with respect to the establishment of the University or any authority of the University or in connection with the first meeting of any authority of the University, the [1][Central Government] may by order[2] make any appointment or do anything which appears to [3][it] necessary or expedient for the proper establishment of the University or any authority thereof or for the first meeting of any authority of the University.

(*2*) Any such order may modify the provisions of this Act and the Statutes so far as may appear to the [1][Central Government] to be necessary or expedient for carrying the order into effect.

41. [*Appointment of Pro-Vice-Chancellor not obligatory.*] *Ins. by the Aligarh Muslim University* (*Amendment*) *Act, 1935* (*VI of 1935*), *s. 2; rep. by the Aligarh Muslim University* (*Amendment*) *Act, 1945* (*XI of 1945*), *s. 7.* (*with effect from 1945*).

THE SCHEDULE.

(*See section 28.*)

First Statutes of the University.

Rectors.

1. (*1*) The following persons shall be Rectors of the University, namely:—

(*i*) all [4][Governors and Chief Commissioners [5][~~of the Provinces of India~~];]

(*ii*) such Rajapramukhs ~~Rulers~~ of [6][~~Acceding~~ Part B States ~~and~~ other Indian ~~States~~], Princes, and other persons as the Lord Rector may, of his own motion or on the recommendation of the Court, appoint.

(*2*) The Chancellor may also, on the recommendation of the Academic Council, appoint persons of eminent position or attainments to be Rectors.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] For such order, *see* Gen. R. and O., Vol. IV, p. 573.
[3] Subs. by the A. O. 1937 for "him".
[4] Subs. by the A. O. 1937 for "Heads of Local Governments".
[5] Subs. by the A. O. 1948 for "in British India".
[6] Subs. by the A. O. 1948 for "States in India".

(*The Schedule.—First Statutes of the University.*)

2. The Vice-Chancellor shall hold office for three years and shall be eligible for re-election. The Vice-Chancellor.

3. (*1*) The Vice-Chancellor shall take rank in the University next to the Chancellor and the Pro-Chancellor, and shall be *ex-officio* Chairman of the Executive Council and the Academic Council, and, in the absence of the Chancellor and the Pro-Chancellor, shall preside at Convocations of the University held for conferring degrees and at meetings of the Court. Powers of the Vice-Chancellor.

(*2*) It shall be the duty of the Vice-Chancellor to see that the Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all powers necessary for that purpose.

(*3*) He shall have the power of convening meetings of the Court and the Executive Council and shall perform all such acts as may be necessary to carry out or further the provisions of the Act, the Statutes and the Ordinances.

(*4*) If any emergency arises in which in his opinion immediate action should be taken, he shall take such action as he deems necessary and report the fact to the authority which in the ordinary course would have dealt with the matter.

(*5*) He shall be the sole medium of communication between the University and the following authorities, namely, the [1][Central Government], the Lord Rector and the Visiting Board.

4. (*1*) The Pro-Vice-Chancellor shall be the principal academic officer of the University and shall be a whole-time salaried officer thereof. The Pro-Vice-Chancellor.

(*2*) He shall be an *ex-officio* member of the Executive Council and the Academic Council and, in the absence of the Vice-Chancellor, shall preside at meetings of the Academic Council. He shall also have power to convene meetings of the Academic Council.

(*3*) He shall hold office for five years and be eligible for re-appointment.

5. (*1*) The Treasurer shall be appointed by the Court on such conditions and for such period as the Court may think fit. The Treasurer.

(*2*) He shall exercise general supervision over the funds of the University and advise in regard to its financial policy.

(*3*) He shall be an *ex-officio* member of the Executive Council and shall, subject to the control of the Executive Council, manage the property and investments of the University. He shall be responsible for the presentation of the annual estimates and accounts.

(*4*) Subject to the powers of the Executive Council, he shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

(*5*) He shall exercise such other powers as may be prescribed by the Ordinances.

The Registrar.

6. (*1*) The Registrar shall be a whole-time paid officer of the University appointed by the Court.

(*2*) He shall hold office for five years and shall be eligible for re-appointment.

(*3*) The Registrar shall—

(*a*) be the custodian of the records, the seal and such other property of the University as is committed to his charge ;

(*b*) keep and maintain the register of registered graduates ;

(*c*) attend and act as Secretary at meetings of the Executive and Academic Councils and, if deemed necessary, of the Departments of Studies, and any committees appointed by such bodies, and to keep the minutes thereof ;

(*d*) under the superintendence of the Academic Council and the examination committees arrange for and superintend the examinations of the University ; and

(*e*) perform such other duties as may from time to time be prescribed by the Ordinances and Regulations.

The Proctor and Librarian.

7. (*1*) The following officers shall be appointed by the Executive Council on the recommendation of the Academic Council:—

(*i*) A Proctor for the maintenance of the discipline of the students of the University ;

(*ii*) A Librarian for the University Library.

(*2*) The Academic Council may delegate to the Proctor such of its powers as regards discipline as it thinks fit.

The Court.

8. The Court shall, subject to provisions hereinafter contained, consist of the following members:—

Class I.—Ex-Officio *Members.*

The Chancellor, the Pro-Chancellor and the Vice-Chancellor for the time being shall be *Ex-Officio* Members.

Class II.—Foundation Members.

The persons named in the Annexure to this Schedule shall be Foundation Members.

Class III.—Life Members.

Every person who has contributed to the Muhammadan Anglo-Oriental College, Aligarh, the Muslim University Association or the Muslim University Foundation Committee a donation of one lakh of rupees or upwards or has transferred property of like value to any of the said institutions and all persons who shall hereafter make such a donation or transfer shall be a Life Member.

Class IV.—Ordinary Members.

Ordinary Members shall be persons elected or appointed as follows:—

(1) Ten persons to represent such States in India as have contributed or shall contribute one lakh of rupees and upwards, together with a permanent recurring grant, to or for the purposes of the University, who shall be nominated by such States.

(2) Sixty persons to be elected by persons who have made or shall make donations of five hundred rupees and upwards to or for the purposes of the University.

(3) Forty persons to be elected by the registered graduates of the University, of whom not less than twenty shall for the first fifteen years after the commencement of this Act be persons who have been educated at the Muhammadan Anglo-Oriental College, Aligarh, and are members of an Association recognised for that purpose by the Court.

Persons to be eligible for election under this provision must be registered graduates of not less than ten years' standing.

(4) Twenty persons to be elected by the Central Standing Committee of the All-India Muhammadan Educational Conference from among its own members, not less than ten of whom shall be persons who have been engaged for at least five years in teaching:

Provided that no person shall be qualified to vote in more than one electorate under any of the three last preceding clauses.

(5) Ten persons to be nominated by the Chancellor.

(6) Thirty-three persons to be elected by the Court, namely:—

  (*i*) nine persons to represent Islamia Colleges and other Muslim educational institutions not under the control of the University;

  (*ii*) fifteen persons engaged in the learned professions; and

  (*iii*) nine persons learned in the Muslim religion and Oriental studies; and

(7) Fifteen persons to be elected by the Academic Council from among its own members.

The First Court.

9. (*1*) The members provided for in Classes I, II, III and clause (1) of Class IV shall be the members of the First Court.

(*2*) At the first meeting of the Court, which shall be held as soon as may be after the commencement of this Act, the thirty-three persons specified in clause (6) of Class IV shall be elected.

(*3*) The Academic Council shall elect its representatives at its first meeting.

(*4*) Any member of the Court may be removed by a resolution, passed by a majority consisting of not less than two-thirds of the members of the Court to the effect that—

(*i*) he has become incapable of performing his duties, or

(*ii*) he has acted against the interests of the University, or

(*iii*) he has been convicted by a Court of law of what, in the opinion of the Court, is a serious offence.

Retirement of Foundation Members.

10. (*1*) Every Foundation Member of the Court shall, unless his office is previously vacated, hold office for five years from the commencement of this Act.

(*2*) At the end of the fifth, sixth, seventh and eighth years after the commencement of this Act, as nearly as may be, one-fifth in number of the total number of the Foundation Members remaining at the end of the fifth year, shall in each of these years resign, and at the end of the ninth year all the Foundation Members then remaining shall resign.

(*3*) The order in which the Foundation Members shall resign shall be the reverse order to which their names appear in the Annexure to this Schedule.

(*4*) A Foundation Member who is required to retire under the provisions of this clause shall be eligible for election as an Ordinary Member in a vacancy occurring after his retirement.

Election of ordinary members.

11. (*1*) After the fifth and subsequent annual meetings up to the ninth, there shall be annually appointed in accordance with the provisions of clauses (2) to (5) of Class IV the following number of Ordinary Members, namely:—

In clause (2)	12
In clause (3)	8
In clause (4)	4
In clause (5)	2

(*2*) When an electoral body entitled to elect a member or members fails to do so within the time prescribed, the Court may elect any qualified person or persons of the class from which such electoral body was entitled to elect to be an Ordinary Member.

General provisions as to Members of the Court.

12. (*1*) All Ordinary Members shall hold office for five years from the date of their election.

(*2*) Any casual vacancies among the nominated or elected members shall be filled, as soon as conveniently may be, by the person or body who nominated or elected the member whose place has become vacant, and the person nominated or elected to such vacancy shall be a member for the residue of the term for which the person in whose place he is nominated or elected was a member.

(*3*) The Executive Council may, subject to the provisions of these Statutes, make rules prescribing the qualifications of the electors, the mode of election and other conditions to which the electors and the elected members shall be subject.

Meetings of the Court.

13. (*1*) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(*2*) The Vice-Chancellor may, whenever he thinks fit, and shall upon requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

(*3*) Twenty-five members shall form a quorum.

Powers in respect to granting and withdrawing degrees.

14. (*1*) The Court may, by resolutions passed by a majority of not less than two-thirds of the members present and voting,—

(*a*) on the recommendation of the Academic Council through the Executive Council, make proposals to the Chancellor for the conferment of honorary degrees;

(*b*) on the recommendation of the Executive Council, withdraw any ordinary degree or diploma conferred by the University; and

(*c*) with the sanction of the Chancellor, withdraw any honorary degree.

(*2*) In cases of urgency the Chancellor may, on the recommendation of the Executive Council alone, confer an honorary degree.

The Executive Council.

15. (*1*) The Executive Council shall consist of not more than thirty members.

(*2*) The Vice-Chancellor, the Pro-Vice-Chancellor, the Principal of an Intermediate College maintained by the University, who shall be selected by the Vice-Chancellor and the Treasurer, shall be *ex-officio* members of the Executive Council.

(*3*) Six other members shall be elected by the Academic Council and twenty shall be elected by the Court, of whom not less than seven shall be residents of places outside the United Provinces of Agra and Oudh.

(*4*) Elected members shall hold office for three years, provided that at the second annual meeting of the Court and at the third annual meeting of the Court six of the first members elected by it shall retire by ballot.

(*5*) Eleven members of the Council shall form a quorum.

(*6*) The Executive Council may make rules prescribing the mode of election and the conditions to which the elected members shall be subject.

Powers of the Executive Council.

16. (*1*) The Executive Council shall, subject to the control of the Court and to the Act, the Statutes and the Ordinances, administer the revenue and property of the University, regulate the finances, accounts and investments and perform all such duties and such acts as may be necessary for the business of the University.

(*2*) (*a*) In particular the Executive Council shall have power to make and vary investments, purchase, accept and sell moveable or immoveable property, enter into and carry out or cancel contracts and appoint persons to execute and register the same ;

(*b*) It shall maintain the buildings, premises, furniture and apparatus needed for the work of the University ;

(*c*) It shall grant leave to officers, teachers and servants in accordance with the Ordinances and Regulations and, subject to the provisions of section 36 of the Act, deal with any grievances of any such officers, teachers or servants ;

(*d*) It shall maintain a register of donors of the University ;

(*e*) It shall maintain the University press ;

(*f*) It shall on the recommendation of the Academic Council prescribe the fees and charges payable by students ;

(*g*) It shall fix the fees and allowances of examiners, moderators and other persons engaged in the University examinations ; and

(*h*) It shall be the managing body of any Intermediate college or school maintained by the University, and shall supervise any Intermediate colleges and schools admitted to privileges by the University.

The Academic Council.

17. (*1*) The Academic Council shall consist of the following persons, namely:—

(i) The Vice-Chancellor and Pro-Vice-Chancellor ;
(ii) The Chairman of the Departments of Studies ;
(iii) The Librarian and the Proctor ;
(iv) Two persons elected by the Court ;
(v) Two persons nominated by the Visiting Board ; and
(vi) Five persons co-opted by the other members of the Council, two of whom at least shall be Heads of Halls, two Professors or Readers, and one a person not engaged in teaching in the University.

(*2*) Eleven members of the Academic Council shall form a quorum.

(*3*) Members other than *ex-officio* members shall hold office for three years.

Powers of the Academic Council.

18. (*1*) The Academic Council shall—

(i) arrange and supervise the work of education in the University ;

(ii) recommend to the Executive Council the creation and abolition of posts in the educational and tutorial staff ;

(The Schedule.—First Statutes of the University.)

(iii) subject to conditions imposed by any trust, fix the time, mode and terms of competition for Fellowships, Scholarships, Studentships, Medals and Prizes and award the same ;

(iv) conduct the examinations and publish the results thereof in the University Gazette ;

(v) have entire charge of the discipline of the students in the University ;

(vi) publish and revise lists of prescribed and recommended books, if any, and prescribe syllabuses in consultation with the Departments of Studies ;

(vii) appoint a library committee with such powers as may be prescribed in the Ordinances ; and

(viii) publish the University Gazette.

(*2*) All decisions of the Academic Council as regards matters of discipline of students, syllabuses of studies and the conduct of examinations shall be final, with the exception of those which relate to the Departments of Theology whose proceedings shall be subject to the approval of the Executive Council.

Departments of Studies.

19. (*1*) There shall be Departments of Studies in the following branches of knowledge, namely:—

(i) English language and literature,
(ii) History and Political Science,
(iii) Economics,
(iv) Philosophy and Psychology,
(v) Physics,
(vi) Chemistry,
(vii) Mathematics and Astronomy,
(viii) Geography,
(ix) Sunni Theology,
(x) Shia Theology,
(xi) Islamic Studies,
(xii) Arabic language and literature,
(xiii) Persian,
(xiv) Urdu,
(xv) Law.

(*2*) As soon as circumstances permit, there shall also be Departments of Studies in the following branches of knowledge, namely:—

(i) Education,
(ii) Botany,
(iii) Zoology,
(iv) Agriculture,
(v) Medicine,
(vi) Commerce,
(vii) Technology, and

(The Schedule.—First Statutes of the University.)

(viii) Such other departments as the Court, on the recommendation of the Academic Council made through the Executive Council, may institute.

(*3*) Each Department of Studies shall—

(*a*) consist of the teachers in the subject with which the Department is concerned: provided that the Pro-Vice-Chancellor shall be an *ex-officio* member of each Department;

(*b*) have power to co-opt specialists not exceeding two in number, except in the case of the Department of Law, which shall co-opt four members, two of whom shall be Judges of a High Court;

(*c*) elect from among the Professors and Readers of the department its own Chairman who shall hold office for three years, but must resign if at any time he ceases to be a Professor or Reader;

(*d*) recommend to the Academic Council courses and syllabuses of studies and text-books for its subjects; and

(*e*) make recommendations to the Academic Council in respect of Fellowships, Scholarships and Studentships, Medals and Prizes in the subject with which it is concerned.

(*4*) The Academic Council may assign teachers of cognate subjects to a Department of Study.

Appointments.

20. Subject to the general control of the Court, all appointments on the teaching staff shall be made by the Executive Council from a list of persons recommended as suitable therefor by a Committee of Appointment consisting of the Pro-Vice-Chancellor, the Chairman of the Department of Studies concerned and three other persons appointed by the Academic Council. Other appointments, unless otherwise provided for, shall be made by the Executive Council.

Register of graduates.

21. The register of registered graduates shall, subject to conditions prescribed by the Ordinances, contain the names of—

(1) the graduates of the University; and

(2) graduates of other Universities who have been educated for at least two years at the Muhammadan Anglo-Oriental College, Aligarh,

separately entered therein.

Convocation.

22. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Committees.

23. Any authority of the University may appoint such and so many standing or special committees as to it may seem fit, and may appoint to them persons who are not members of such authority. Such committees may deal with any subject delegated to them, subject to subsequent confirmation by the authority appointing them.

24. Where no provision is made for a president or chairman to preside over a meeting, authority or committee or when the president or chairman so provided for is absent, the members present shall elect one of their number to preside at the meeting. Acting President of meetings.

25. Any member of the Court, the Executive Council, the Academic Council or any other University authority or committee may resign by letter addressed to the Vice-Chancellor. Resignations.

26. Every officer of the University and every member of any authority whose term of office or membership has expired shall be eligible for re-appointment or re-election, as the case may be. Re-election.

THE ANNEXURE.

(See section 8 of the First Statutes.)

FOUNDATION MEMBERS OF THE FIRST COURT.

1. The Hon'ble Nawab Mumtaz-ud-daula Sir Muhammad Faiyaz Ali Khan, K.C.I.E., K.C.V.O., C.S.I., C.B.E., of Pahasu, Bulandshahr.
2. Saiyid Muhammad Mir, Esq., Pleader, Delhi.
3. The Hon'ble Nawab Muhammad Muzammil-ullah Khan, Khan Bahadur, O.B.E., of Bhikampur, Aligarh.
4. The Hon'ble Nawab Muhammad Abdul Majid, C.I.E., Barrister-at-Law, Allahabad.
5. The Hon'ble Saiyid Mahomed Ali, Retired District and Sessions Judge, Aligarh.
6. Shams-ul-ulama Saiyid Amjad Ali, M.A., Sadiqpur, Patna.
7. Nawab Imadul-Mulk Bahadur, Saiyid Hussain Bilgrami, B.A., C.S.I., Retired Director of Public Instruction, His Exalted Highness the Nizam's Government, Hyderabad State.
8. Maulvi Nizam-ud-din Hasan, B.A., B.L., Advocate, Lucknow.
9. Haji Muhammad Mossa Khan, Dataoli, Aligarh.
10. Sahibzada Aftab Ahmad Khan, Barrister-at-Law, India Office, London.
11. Muhammad Alaul Hasan, Esq., B.A., Deputy Collector, Bijnor.
12. Khwaja Sajjad Husain, Esq., B.A., Panipat, Karnal.
13. Nawabzada Saiyid Ashraf-ud-din Ahmad, Khan Bahadur, Barh, Patna.
14. Sahibzada Sultan Ahmad Khan, M.A., LL.M., Barrister-at-Law, Appeals Member, Gwalior State.
15. The Hon'ble Khwaja Yusuf Shah, Khan Bahadur, C.I.E., Amritsar.
16. Nasrullah Khan, Esq., Barrister-at-Law, Surat.

(*The Annexure.—Foundation Members of the First Court.*)

17. Saiyid Zain-ud-din, Khan Bahadur, M.A., Officiating Collector, Mainpuri.
18. Khan Muhammad Aslam Hayat Khan, Esq., Extra Assistant Commissioner, Punjab.
19. Munshi Niaz Muhammad Khan, B.A., Pleader, Jullundur,
20. Maulvi Nazir Ahmad, B.A., LL.B., Jammu.
21. The Hon'ble Mr. Justice Muhammad Rafiq, Barrister-at-Law, High Court, Allahabad
22. Maulvi Muhammad Badrul Hasan, LL.B., Retired Sub-Judge, Aligarh.
23. Maulvi Muhammad Habibur-Rahman Khan Sharwani, Hyderabad State.
24. Nawab Fateh Ali Khan Qizilbash, Khan Bahadur, C.I.E., Lahore.
25. Saiyid Ahmad Ali, Esq., M.A., Kamthana, Ujjain.
26. Saiyid Muhammad Baqar Rizvi, Rampur State.
27. Muhammad Abdus Salam Khan, Esq., Rampur State.
28. Hakim Hafiz Muhammad Ajmal Khan, Delhi.
29. Qazi Aziz-ud-din Ahmad, Khan Bahadur, O.B.E., I.S.O., Judicial Secretary, Dholpore State.
30. Shaikh Abdul Qadir, Khan Bahadur, B.A., Barrister-at-Law, Lyallpur.
31. Shaikh Abdullah, Esq., B.A., LL.B., Vakil, Aligarh.
32. The Hon'ble Raja Sir Muhammad Tassaduq Rasul Khan, K.C.S.I., of Jahangirabad, Bara-Banki.
33. The Hon'ble Raja Sir Muhammad Ali Muhammad, Khan Bahadur, K.C.I.E., of Mahmudabad, Lucknow.
34. Mirza Shujaat Ali Beg, Khan Bahadur, Calcutta.
35. Ghulam Muhammad Munshi, Esq., Barrister-at-Law, Rajkote.
36. Shaikh Wahid-ud-din, Khan Bahadur, Meerut.
37. Maulvi Abdulla Jan, Ludhiana.
38. The Hon'ble Mian Muhammad Shafi, Khan Bahadur, C.I.E., Member of the Governor General's Executive Council, Simla.
39. Saiyid Tufail Ahmad, Sub-Registrar, Aligarh.
40. Saiyid Nabi-ullah, Esq., Barrister-at-Law, Lucknow.
41. Saiyid Jafar Husain, Khan Bahadur, Lucknow.
42. Nawab Bahadur, Nawab Muhammad Abdus Samad, Khan Bahadur, of Talibnagar and Chhitari, Aligarh.
43. Maulvi Sir Rahim Bakhsh, K.C.I.E., President, Council of Regency, Bahawalpur State.
44. The Hon'ble Nawab Saiyid Nawab Ali Chaudhri, Khan Bahadur, C.I.E., Calcutta.

(*The Annexure.—Foundation Members of the First Court.*)

45. Muhammad Akbar Nazar Ali Hydari, Esq., B.A., Secretary to H. E. H. the Nizam's Government in the Judicial, Police and General Departments, Hyderabad State.
46. The Hon'ble Mr. Justice Saiyid Muhammad Abdul Raoof, Khan Bahadur, Barrister-at-Law, High Court, Lahore.
47. Razzaq Bakhsh Qadri, Esq., Barrister-at-Law, Aligarh.
48. Shaikh Ghulam Sadik, Khan Bahadur, Amritsar.
49. Yaqub Hasan, Esq., Madras.
50. Maulvi Naseer Husain Khan "Khayal," Calcutta.
51. Malik Badr-ud-din Ghulam Husain, Khan Bahadur, Nagpur.
52. Saiyid Muhammad Sharf-ud-din, Esq., Barrister-at-Law, Patna.
53. Saiyid Ali Hasan Khan, Lucknow.
54. The Hon'ble Sir Abdul Karim Abdul Shakur Jamal, Kt., C.I.E., Merchant, Burma.
55. Maulvi Muhammad Habib-ullah Khan, B.A., Deputy Collector, Aligarh.
56. Munshi Sarfaraz Khan, Sub-Registrar, Muzaffarnagar.
57. Major Nawabzada Haji Hafiz Muhammad Obeidulla Khan, C.S.I., Commander-in-Chief, Bhopal State Forces, and Honorary A.-D.-C. to H. E. the Viceroy.
58. The Hon'ble Sir Fazulbhoy Currimbhoy Ebrahim, Kt., C.B.E., Bombay.
59. Nawab Muhammad Ahmad Said Khan, M.B.E., of Chhitari, Bulandshahr.
60. Amir Mustafa Khan, Esq., Aligarh.
61. The Hon'ble Sir Ibrahim Rahimtoola, Kt., C.I.E., Member of the Governor's Executive Council, Bombay.
62. Saiyid Hasan Imam, Esq., Barrister-at-Law, Patna.
63. Nawab Sarbuland Jang Bahadur Muhammad Hameed-ullah Khan, Barrister-at-Law (Retired Chief Justice, Hyderabad State), Allahabad.
64. Ghulam Ahmad Khan Kalami, Esq., Coromandel, Kolar Gold Fields.
65. Munshi Muhammad Israr Hasan Khan, Khan Bahadur, C.I.E., Judicial Minister, Bhopal State.
66. Honorary Captain Nawab Malik Muhammad Mubariz Khan Tiwana, C.B.E., of Shahpur.
67. Abdul Majid Khwaja, Esq., Barrister-at-Law, Patna.
68. Kasim Ali Jirajbhai, Esq., Poona.
69. Haji Muhammad Swaleh Khan of Bhikampur, Aligarh.

(The Annexure.—Foundation Members of the First Court.)

70. Saiyid Ross Masood, Esq., B.A., Director of Public Instruction, Hyderabad State.
71. Ibni Ahmad, Esq., Barrister-at-Law, Allahabad.
72. Maulvi Mohammad Ibrahim, Wazir, Khairpur State.
73. Maulvi Siraj Ahmad, M.A., Extra Assistant Commissioner, Saugor.
74. The Hon'ble Justice Sir Abd-ur-rahim, Kt., M.A., Barrister-at-Law, High Court, Madras.
75. Saiyid Wazir Hasan, B.A., LL.B., Officiating Additional Judicial Commissioner, Lucknow.
76. Shaukat Ali, Esq., Rampur State.
77. Maulvi Muhammad Yakoob, Pleader, Moradabad.
78. Ashanul Haq, Esq., Barrister-at-Law, Sialkot.
79. The Hon'ble Nawab Justice Sir Saiyid Shamsul Huda, K.C.I.E., High Court, Calcutta.
80. Mukhtar Ahmad Ansari, Esq., M.D., M.S., M.R.C.S., Delhi.
81. Muhammad Ali Jinnah, Esq., Barrister-at-Law, Bombay.
82. Mazhar-ul-Huq, Esq., Barrister-at-Law, Patna.
83. Maulvi Muhammad Bashir-ud-din, Khan Bahadur, Etawah.
84. The Hon'ble Saiyid Riza Ali, B.A., LL.B., Allahabad.
85. Nazir-ud-din Hasan, Esq., M. A., LL.D., Sessions Judge, Aurangabad, Hyderabad State.
86. Munshi Nisar Husain, Deputy Magistrate, Irrigation Department, Aligarh.
87. Shaikh Muhammad Wajih, Deputy Collector, Bulandshahr.
88. Zahoor Ahmad, Esq., Barrister-at-Law, Allahabad.
89. Raja Saiyid Abu Jafar, C.I.E., of Pirpur, Fyzabad.
90. Sir Saiyid Ali Imam, K.C.S.I., Hyderabad State.
91. The Hon'ble Khan Sir Zulfikar Ali Khan, Kt., C.S.I., of Maler Kotla, Lahore.
92. Dr. Said-uz-Zafar Khan, M.B., Ch.B., D.T.M., Professor, King George's Medical College, Lucknow.
93. Munshi Muhammad Akram Khan, B.A., Deputy Superintendent of Police, Gorakhpur.
94. Maulvi Abdul Ahad, Khan Bahadur, Delhi.
95. Hafiz Muhammad Haleem, Khan Bahadur, Cawnpore.
96. Shah Munir Alam, B.A,. LL.B., Sub-Judge, Gorakhpur.
97. Mumtaz Husain, Esq., Barrister-at-Law, Lucknow.
98. Shamshad Ahmad Khan, Esq., Barrister-at-Law, Aligarh.

(*The Annexure.—Foundation Members of the First Court.*)

99. Shaikh Muhammad Musanna, Khan Sahib, B.A., Deputy Collector, Benares.
100. Qazi Makhdum Husain, Retired Deputy Collector, Saharanpur.
101. Muhammad Ismail Khan, Esq., Barrister-at-Law, Meerut.
102. The Hon'ble Saiyid Al-i-Nabi, Khan Bahadur, B.A., LL.B., Agra.
103. Tassaduq Ahmad Khan Sharwani, Esq., Barrister-at-Law, Aligarh.
104. Abdul Hasan, Esq., B.A., Inspector of Schools, Jhansi.
105. Nawabzada Haji Muhammad Hamidullah Khan, B.A., Chief Secretary to H. H. the Ruler of Bhopal.
106. Munshi Abdul Hamid Khan, Khan Bahadur, Deputy Collector, Bara-Banki.
107. Sir Sahibzada Nawab Abdul Qaiyum, Khan Bahadur, K.C.I.E., Peshawar.
108. Nawab Nazir Jang Bahadur Mirza Nazir Beg, Military Secretary, H. E. H. the Nizam's Government, Hyderabad State.
109. Maulvi Zafar Umar, B.A., Deputy Superintendent of Police, Agra.
110. The Hon'ble Mian Fazl-i-Hussain, Khan Bahadur, M.A., Barrister-at-Law, Lahore.
111. Saiyid Sajjad Haidar, B.A., Deputy Collector, Sultanpur.
112. Mirza Zulqadr Jang Bahadur, M.A. (Cantab.), Barrister-at-Law, Lucknow.
113. Dr. Saiyid Mahmud, Barrister-at-Law, Patna.
114. The Hon'ble Maulvi Abul Kasim Fazl-ul-Haq, M.A., B.L., Vakil, Calcutta.
115. Maulvi Abdul Haq, B.A., Aurangabad.
116. Qassim Hussain, Esq., 2nd Tallaqdar, Division Bedar, Hyderabad State.
117. Mauzzam Ali Khan, Esq., Barrister-at-Law, Moradabad.
118. Agha Muhammad Safdar, B.A., LL.B., Vakil, Sialkot.
119. Mian Haq Nawaz, B.A., LL.B., Lahore.
120. Chaudhri Khushi Muhammad Khan, Revenue Member, Kashmere State.
121. Babu Nizam-ud-din, Amritsar.
122. Said Muhammad Khan, Esq., Khurja, Bulandshahr.
123. Munshi Muhammad Wajid Ali Khan, Khan Sahib, Judicial Secretary, Bhopal State.
124. Mahomed Ali, Esq., Rampur State.

THE IMPERIAL BANK OF INDIA ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Definitions.

CHAPTER I.

Establishment and Incorporation of the Imperial Bank of India.

3. Establishment of the Imperial Bank.

CHAPTER II.

Transfer of the undertakings of Presidency Banks to the Imperial Bank.

4. Transfer of assets and liabilities.
5. Terms of transfer as regards shareholders in the Presidency Banks.
6. Existing officers and servants of Presidency Banks and existing Provident Funds.
7. Dissolution of Presidency Banks.

CHAPTER III.

Business of the Bank.

8. Business which Bank may transact.
9. [*Repealed.*]
10. Bank may do Government business.
11. Acquisition of business premises.
12. Establishment of branches and agencies.
13. Power of Bank to take over business of certain other Banks and for that purpose to increase its capital.
13A. Power of Bank to grant loans to certain other Banks.

CHAPTER IV.

Shares.

14. Nature of shares.
15. Certificate of shares.
16. Principal register of shareholders.
17. Branch registers.
18. Trusts not to be entered on the register.
19. Power to close register.
20. Inspection of register of shareholders.

SECTIONS.

Contracts.

21. Form of contracts.

Regulations of Bank.

22. Regulations of the Bank.

CHAPTER V.

Management.

23. Offices of the Bank.
24. Central Board.
25. Local Boards.
26. Powers of Local Boards.

Local Boards at Calcutta, Madras and Bombay.

27. Constitution of first Local Boards.

Central Board.

28. Constitution of Central Board.
29. Constitution of other Local Boards.
30. [*Repealed.*]

CHAPTER VI.

Miscellaneous.

31. Power of Central Board to make bye-laws.
32. References to Presidency Banks.

33-34. [*Repealed.*]

SCHEDULE I.

PART I.

Business which the Bank is authorised to carry on and transact.

PART II.

Business which the Bank is not authorised to carry out or transact.

SCHEDULE II.

REGULATIONS OF THE BANK.

1. Share certificates.

Lien.

2. Bank's lien on shares.
3. Power to sell for default.
4. Disposal of proceeds of sales.

SECTIONS.

Calls on Shares.

5. Calls.
6. Liability of joint-holders.
7. Liability to pay interest on unpaid calls.

Transfer and transmission of Shares.

8. Execution of transfers.
9. Form of transfers.
10. Power to decline to register transfers.
11. Deceased shareholders.
12. Death or insolvency of shareholders.
13. Rights of persons acquiring shares on death or insolvency of shareholder.

Forfeiture of Shares.

14. Failure to pay call.
15. Form of notice.
16. Forfeiture of shares.
17. Disposal of forfeited shares.
18. Liability of shareholders after forfeiture.

Alteration of Capital.

19. Power to increase or reduce capital.
20. Procedure on resolution to increase capital.
21. New shares.
22. Procedure on resolution to reduce capital.

Meetings of Shareholders.

23. Annual general meeting.
24. Special meetings.
25. Quorum.
26. Decision by majority of votes.
27. Power to declare resolution carried by show of hands.
28. Poll to be taken, if duly demanded.
29. Proceedings and resolutions at meetings to be binding.

Votes of Members.

30. Votes.
31. Votes of joint-holders.
32. Votes on behalf of lunatics and minors.
33. Shareholders in default.
34. Poll.
35. Form of proxies.
36. Deposit of proxies.

Local Meetings.

37. Annual local meeting.
38. Procedure at local meeting.

SECTIONS.

Qualifications and disqualifications of Directors and others.

39. Qualification and disqualification of Directors and of members of Local Boards.

Removal of Directors and members of Local Boards.

40. Removal of Directors.
41. Removal of member of Local Board.

Meetings of Central Board.

42. Meetings of Central Board.

Local Boards.

43. Term of office and number of members of Local Boards.
44. President, vice-president and chairman.
45. Vacancies.

General provisions as to Central and Local Boards.

46. Proceedings of Boards not invalidated by vacancies.
47. Acts of members of Boards valid notwithstanding subsequent discovery of disqualification.
48. Indemnity of members of Boards.

The Seals.

49. Common seal.

Officers of the Bank.

50. Appointment, salaries, suspension and removal of officers.
51. Accounts, receipts and documents of Bank by whom to be signed.
52. Officers forbidden to engage in other commercial business.
53. Security from officers.

Accounts and Dividends.

54. Books to be balanced twice a year.
55. Dividends to be determined half-yearly.
56. Transfer to Reserve.
57. Joint-holders.

Audit.

58. Auditors.
59. Government auditors.
60. Rights and duties of auditors.
60A. Liquidation.

Notices.

61. Service.
62. Absence of registered address.
63. Notice on joint-holders.
64. Notice to legal representative.
65. Service of notice on Bank.

SCHEDULE III. [*Repealed.*]

ACT NO. XLVII OF 1920.[1]

[19th September, 1920.]

An Act to constitute an Imperial Bank of India and for other purposes.

WHEREAS it is expedient to constitute an Imperial Bank of India and to transfer to the Bank so constituted the undertaking of each of the Presidency Banks and to dissolve those Banks and to make provision for the regulation and management of the Imperial Bank of India; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Imperial Bank of India Act, 1920.

(*2*) It shall come into force on such [2]date as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "appointed day" means such day as the [3][Central Government] may appoint for the commencement of this Act;

(*b*) "the Bank of Bengal", "the Bank of Madras" and "the Bank of Bombay" mean, respectively, those Banks as constituted by the Presidency Banks Act, 1876[5]; XI of 1876.

(*c*) "dividend" includes bonus;

(*d*) "general meeting" means the annual meeting of the shareholders of the Bank;

(*e*) "goods" includes also bullion, wares and merchandise;

(*f*) "local meeting" means the annual meeting of the shareholders whose names are registered in a branch register;

(*g*) "meeting" includes an adjourned holding of a meeting;

(*h*) "prescribed" means prescribed by bye-laws made under this Act;

(*i*) "Presidency Banks" means the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by the Presidency Banks Act, 1876[5], and a "Presidency Bank" means any one of these Banks; XI of 1876.

[6][(*ii*) "secretary" and "deputy secretary" mean, respectively, a secretary and treasurer and a deputy secretary and treasurer of the Bank.]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 74; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 184, and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 491, 738, 1003 and 1164.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[2] This Act was brought into force from the 27th January, 1921, *see* Gen. R. and O., Vol. IV, p. 578; Gazette of India, 1920, Pt. I, p. 2059.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Rep. by this Act.

[6] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 2.

(*j*) "special local meeting" means a meeting of the shareholders whose names are registered in a branch register, convened for the transaction of some particular business specified in the notice convening the meeting ;

(*k*) "special local resolution" means a resolution passed at a special local meeting ;

(*l*) "special meeting" means a meeting of shareholders convened for the transaction of some particular business specified in the notice convening the meeting ; and

(*m*) "special resolution" means a resolution passed at a special meeting.

CHAPTER I.

Establishment and Incorporation of the Imperial Bank of India.

Establishment of the Imperial Bank.

3. (*1*) A Bank to be called the Imperial Bank of India and in this Act referred to as "the Bank" shall be constituted for the purpose of taking over the undertakings of the Presidency Banks and to carry on the business of banking in accordance with the provisions of this Act.

(*2*) Every person who, immediately before the appointed day, was registered as a shareholder or as a holder of stock in any of the Presidency Banks, together with such other persons as may from time to time become shareholders in the Bank in accordance with the provisions of this Act, shall, as long as they are shareholders in the Bank, constitute a body corporate with perpetual succession and a common seal under the name of the Imperial Bank of India and shall sue and be sued in that name.

(*3*) Subject to the provisions of this Act, the capital of the Bank shall consist of one hundred and twelve millions and five hundred thousand rupees divided into shares of five hundred rupees each.

(*4*) The liability of the shareholders of the Bank shall be limited to the amount not fully paid up on their shares.

CHAPTER II.

Transfer of the undertakings of Presidency Banks to the Imperial Bank.

Transfer of assets and liabilities.

4. (*1*) Subject to the provisions of this Act, as from the appointed day, the undertakings of each of the Presidency Banks shall be transferred to and shall vest in the Bank.

(*2*) The undertaking of a Presidency Bank shall be deemed to include all rights, powers, authorities and privileges and all property, moveable or immoveable, including cash balances, reserve funds, investments and all other interests and rights in or arising out of such property as may be in the possession of that Bank immediately before the appointed day, and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations of whatever kind then existing of that Bank.

(*3*) If, on the appointed day, any suit, appeal or legal proceeding of whatever nature is pending by or against any Presidency Bank, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Bank of the undertaking of such Presidency Bank or of anything in this Act, but the suit, appeal or proceeding may be continued, prosecuted and enforced by or against the Bank.

(*4*) All contracts, deeds, bonds, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which any Presidency Bank is a party shall be of as full force and effect against or in favour of the Bank, as the case may be, and may be enforced as fully and effectually as if instead of the Presidency Bank the Bank had been a party thereto.

Terms of transfer as regards shareholders in the Presidency Banks.

5. (*1*) The name of every person who immediately before the appointed day was registered as a shareholder in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding the same number of shares in the Bank as stood in his name in the register of such Presidency Bank:

Provided that, for the purposes of this section two half-shares standing in the name of any such person in the register of any Presidency Bank shall be taken as the equivalent of one share, and odd half-shares shall be dealt with as hereinafter provided.

(*2*) The name of every person who immediately before the appointed day was registered as a holder of stock in any of the Presidency Banks shall be registered in accordance with the provisions of this Act hereinafter appearing as holding one share in the Bank for every Rupees five hundred of stock of which he was the registered holder in such Presidency Bank, and odd amounts of stock not amounting to Rupees five hundred shall be dealt with as hereinafter provided.

(*3*) The Bank shall issue fractional certificates to the holders of odd half-shares and of odd amounts of stock, not amounting to Rupees five hundred, certifying, as the case may be, that the holder is entitled to one-half of one fully paid share or such fraction of a share as the odd amount of stock is of Rupees five hundred.

(*4*) Holders of fractional certificates shall, if resident in India, within three months and, in any other case, within six months from the date of the certificate either—

(*i*) surrender their fractional certificates with other similar fractional certificates representing in all one fully paid share, in which case the surrenderor shall be entitled to be registered as a shareholder and to have a fresh certificate for a fully paid share in the Bank issued to him and be entitled to an allotment of new shares in the same way as if he had been the holder of one fully paid share, or

(*ii*) at their option surrender the fractional certificates to the Bank, in which case the Bank shall be entitled to sell the shares represented by the fractions so surrendered from time to time in such manner as the Bank deems expedient, and the aggregate net sale proceeds realized by such sale or sales shall be divided proportionately and paid by the Bank to the holders of fractional certificates for whose account the shares may have been so sold.

(*5*) Every shareholder of the Bank whose name has been registered in accordance with the provisions of this section shall be entitled, in respect of every share of which he is so registered as the holder, to an allotment to himself or to his nominee (provided that such nominee is approved by the Bank) of two shares in the Bank with the sum of Rupees one hundred and twenty-five credited as paid up on payment in respect of each share, in the case of a former shareholder or stockholder of the Bank of Bengal or the Bank of Bombay, of Rupees one hundred and twenty-five, and of the Bank of Madras of Rupees two hundred and twenty-five.

(*6*) The Bank shall cause notice to be published in the [1][Official Gazette] and in two daily papers in each Presidency, and shall also send by post to every person whose name immediately before the appointed day was entered in the register of shareholders or stockholders of any of the Presidency Banks, a notice giving particulars of the terms hereinbefore set out as to the allotment of new shares and the surrender of fractional certificates, and as to the manner and form in which application for the allotment of new shares and the surrender of fractional certificates is to be made.

(*7*) If within a period of three months from the date of publication in the [1][Official Gazette] of the notice referred to in sub-section (*6*), any shareholder has not made an application for the allotment of new shares to which he is entitled, the Bank may offer such shares for public subscription and allot them to any person applying therefor:

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[1] Subs. by the A. O. 1937 for "Gazette of India".

Part A States & Part C States

Provided that the Bank in the case of shareholders whose addresses are [1][outside ~~the Provinces of India]~~ may, either generally or in any particular instance, fix an extended period for the admission of applications, but in no case shall that period be later than six months from the date of the publication of the notice in the [2][Official Gazette].

Existing officers and servants of Presidency Banks and existing Provident Funds.

6. (*1*) Subject to the provisions of this Act, every officer and servant employed immediately before the appointed day by a Presidency Bank shall, from the appointed day, become an officer or servant of the Bank, and shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension or gratuity as he would have held the same under the Presidency Bank if this Act had not been passed.

(*2*) Any person who, on the appointed day, has been granted or is in receipt of a pension or other superannuation or compassionate allowance from a Presidency Bank shall be entitled to be paid by, and to receive from, the Bank the same pension or allowance so long as he observes the conditions on which the pension or allowance was granted. Any question whether he has so observed such conditions shall, in case of any difference arising, be determined by the [3][Central Government].

(*3*) For the directors and officers of the Banks of Bombay and Madras who are at the commencement of this Act the respective trustees of the following Funds, that is to say,—

(*a*) the Bank of Bombay Officers' Pension and Guarantee Fund, and

(*b*) the Bank of Madras Pension and Gratuity Fund, and the Bank of Madras Officers' Provident and Mutual Guarantee Fund,

there shall be substituted as trustees of those Funds respectively, the members for the time being and the corresponding officers of the Local Boards of the Bank at Bombay and Madras; and if any doubt arises as to who are the corresponding officers to the officers who are trustees at the commencement of this Act, the decision of the Central Board shall be final.

Dissolution of Presidency Banks.

7. As from the appointed day the Presidency Banks shall be dissolved, and thereafter no person shall make, assert or take any claims, demands or proceedings against any of the said Banks or against a director or officer thereof, in his capacity as such director or officer, except in so far as may be necessary for enforcing the provisions of this Act.

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[1] Subs. by the A. O. 1948 for " out of British India ".
[2] Subs. by the A. O. 1937 for " Gazette of India ".
[3] Subs. by the A. O. 1937 for " G. G. in C."

CHAPTER III.

Business of the Bank.

8. Subject to the provisions of this Act, the business which the Bank is authorised to carry on and transact shall be the several kinds of business specified in Schedule I, subject to the limitations therein mentioned. Business which Bank may transact.

9. [*Business of London Office.*] *Rep. by the Imperial Bank of India (Amendment) Act, 1934 (III of 1934), s. 3.*

10. (*1*) It shall also be lawful for the Bank under any agreement with [1][the Reserve Bank of India]— Bank may do Government business.

(*i*) [2] * * * to pay, receive, collect and remit money, bullion and securities [3][as agent for the Reserve Bank of India] on behalf of [4][any Government] [5][in India or Pakistan];

(*ii*) to undertake and transact any other business which [6][the Reserve Bank of India] may from time to time entrust to the Bank.

[7] * * * * * *

11. For the purpose of providing buildings and places in and at which to carry on and manage the business of the Bank, and proper residences for its officers and servants the Bank may— Acquisition of business premises.

(*a*) acquire any interest in immoveable property and

(*b*) sell, buy, re-sell, exchange, let, furnish, repair, insure against fire and other risks or deal with all or any part of the same as it may consider most conducive to the interests of the Bank.

12. Subject to the provisions of this Act, the Bank may— Establishment of branches and agencies.

(*a*) maintain, as branches or agencies of the Bank, any branches or agencies of the Presidency Banks which were in existence immediately before the appointed day, and may establish branches or agencies at such places [8][, whether in India or elsewhere,] as it deems advantageous, for the interests of the Bank, and

(*b*) discontinue any branch or agency maintained or established under this section.

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 4, for "the Secretary of State for India in Council".

[2] The words "to act as banker for, and" rep. by s. 4, *ibid.*

[3] Ins. by s. 4, *ibid.*

[4] Subs. by the A. O. 1937 for "the Govt."

[5] Ins. by the A. O. 1948.

[6] Subs. by Act 3 of 1934, s. 4, for "the Govt."

[7] Sub-section (2) rep. by s. 4, *ibid.*

[8] Ins. by s. 5, *ibid.*

Power of Bank to take over business of certain other Banks and for that purpose to increase its capital.

13. (*1*) With the sanction of the [1][Central Government], the Bank may enter into negotiations for and purchase and take over the business, including the capital, assets and liabilities, of any banking company carrying on business in India [2][or elsewhere] of which the capital is divided into shares, and may pay the consideration for such purchase either in cash or by the allotment of shares in the capital of the Bank, or partly in one and partly in the other of these ways, and may (subject to the provisions of this Act relating to the increase of capital) for the purpose of any such allotment of shares, increase the capital of the Bank by the issue of such number of shares as may be determined on by the Bank.

(*2*) Any business so purchased shall after the purchase be carried on by the Bank subject to the provisions of this Act.

[3]* * * * * * *

Power of Bank to grant loans to certain other Banks.

[4][**13A.** Notwithstanding anything contained in Schedule I, the Bank may, either alone or conjointly with other persons, for the purpose of averting the winding up of any company [5]* * * having a share capital which is expressed in rupees in its memorandum of association or of any society registered under the Co-operative Societies Act, ~~1912~~, [6][or any other law for the time being in force in Part A States & Part C States [7][~~the Provinces~~ of India or Pakistan or in Burma] relating to co-operative societies] or, where any such company or society is being wound up, of facilitating the winding up, advance or lend money to, or open a cash-credit in favour of, such company, or society or the liquidators thereof, as the case may be, for any period upon the security of all or any of the assets whatsoever of such company or society.] II of 1912. the Provinces

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CHAPTER IV.

Shares.

Nature of shares.

14. (*1*) The shares of the Bank shall be moveable property.

(*2*) Each share in the Bank shall be distinguished by its appropriate number.

Certificate of shares.

15. A certificate under the common or official seal of the Bank, specifying the shares held by any shareholder shall be *primâ facie* evidence of the title of the shareholder to the shares therein specified.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 6.

[3] The Explanation rep. by s. 6, *ibid.*

[4] Ins. by the Imperial Bank of India (Amendment) Act, 1924 (17 of 1924), s. 2.

[5] The words "as defined in section 13" rep. by Act 3 of 1934, s. 7.

[6] Ins. by s. 7, *ibid.*

[7] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

(*Chapter IV.—Shares.*)

Principal register of shareholders.

16. The Bank shall keep in one or more books a register of its shareholders (in this Act referred to as the principal register), and shall enter therein the following particulars so far as they may be available:—

(*i*) the names and addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its number, and of the amount paid on the shares of each shareholder ;

(*ii*) the date on which each person is so entered as a shareholder ; and

(*iii*) the date on which any person ceases to be a shareholder.

Branch registers.

17. (*1*) The Bank shall cause to be kept at the local head offices of the Bank in Calcutta, Madras and Bombay branch registers which shall be deemed to be part of the principal register, and may do so at any other local head office which may hereafter be established under this Act.

(*2*) There shall be entered in the branch register to be kept in Calcutta the name of every person who having been registered as a shareholder or stockholder in the Bank of Bengal is entitled under the provisions of section 5 to be registered as a shareholder in the Bank, with the same particulars appended thereto as are required in the case of the principal register, and the same provision shall apply *mutatis mutandis* to the branch registers to be kept in Madras and Bombay.

(*3*) Any shareholder may apply to the Bank to have his name transferred from one branch register to another in respect of either the whole or any part of the shares standing in his name, and the Bank shall, subject to such conditions as may be prescribed, cause the registers to be amended accordingly.

(*4*) Subject to the provisions of sub-section (*3*) no transaction with respect to any share registered in one branch register shall be registered in any other branch register.

Trusts not to be entered on the register.

18. No notice of any trust, express, implied or constructive, shall be entered on the principal or any branch register or be receivable by the Bank.

Power to close register.

19. The Bank may close the principal register or any branch register for any time or times, not exceeding in the whole thirty days in each year.

Inspection of register of shareholders.

20. (*1*) The principal register of shareholders shall be kept at such places as the Bank, by notification in the [1][Official Gazette], may appoint and, except when closed under the provisions of this Act, that register or any branch register shall during business hours (subject to such reasonable restrictions as the Bank may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any shareholder gratis.

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[1] Subs. by the A. O. 1937 for "Gazette of India".

(2) Any shareholder may require a copy of any such register, or of any part thereof, on prepayment therefor at the rate of six annas for every hundred words or fractional part thereof required to be copied.

[1][(3) A copy of the principal register of shareholders shall be compiled within 30 days after the date of the first ordinary general meeting in each year and shall be filed forthwith with the officer performing the duty of registration of companies under the Indian Companies Act, 1913.] VII of 1913.

Contracts.

Form of contracts.

21. (1) Contracts on behalf of the Bank may be made as follows:—

(i) any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the Bank in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(ii) any contract which, if made between private persons, would by law be valid although made by parol only and not reduced to writing, may be made by parol on behalf of the Bank by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to the provisions of this section shall be effectual in law, and shall bind the Bank and all other parties thereto and their legal representatives.

Regulations of Bank.

Regulations of the Bank.

22. The provisions contained in Schedule II shall be the regulations of the Bank in regard to the matters to which they relate.

CHAPTER V.

Management.

Offices of the Bank.

23. The Bank shall have local head offices in Calcutta, Madras and Bombay, and at such other places in [2][the Provinces of India or Pakistan or in Burma] as the Bank [3]* * * may determine. [4]* * *

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[1] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 8.

[2] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

[3] The words "with the previous sanction of the G. G. in C.", rep. by Act 3 of 1934, s. 9.

[4] The words "The Bank may also, subject to the provisions of this Act as to the business to be transacted there, establish an office in London", rep. by s. 9, *ibid.*

Central Board.

24. The general superintendence of the affairs and business of the Bank shall be entrusted to a Central Board of [1][Directors] (hereinafter in this Act referred to as the "Central Board"), who may exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

Local Boards.

25. Local Boards shall be established at Calcutta, Madras and Bombay, and may be established at such other places in [2][the Provinces of India or Pakistan or in Burma] as the Central Board [3]* * * * may determine.

Powers of Local Boards.

26. Without prejudice to the powers conferred by section 24, the Local Boards, established at Calcutta, Madras and Bombay shall have power generally to transact all the usual business of the Bank, and shall have power as regards entries in the branch registers, respectively kept at those places, to examine and pass or refuse to pass transfers and transmissions and to approve or refuse to approve transferees of shares and to give certificates of shares.

Local Boards at Calcutta, Madras and Bombay.

Constitution of first Local Boards.

27. The several persons who were, immediately before the appointed day, respectively the directors of the Presidency Banks shall constitute the first Local Boards of the Bank at Calcutta, Madras and Bombay, respectively, and the persons who were then president, vice-president and secretary, respectively, of the said Banks shall fill the same offices in the respective Local Boards until they vacate office in accordance with the provisions of this Act.

Central Board.

Constitution of Central Board.

[4][**28.** (*1*) The Central Board shall consist of the following Directors, namely:—

(*i*) the presidents and vice-presidents of the Local Boards established by this Act;

(*ii*) one person to be elected from amongst themselves by the members of each Local Board established by this Act;

(*iii*) a Managing Director who shall be appointed by the Central Board for a period not exceeding five years on such terms as the Central Board may direct, and may be continued in his appointment by the Central Board for such further periods not exceeding five years in each case as the Central Board thinks fit;

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 10, for "Governors".

[2] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

[3] The words "with the previous sanction of the G. G. in C.", rep. by Act 3 of 1934, s. 11.

[4] Subs. by s. 12, *ibid.*, for the original section.

(*iv*) such number of persons not exceeding two and not being [1][officers of the Crown] as may be nominated by the [2][Central Government]. Such persons shall hold office for one year but may be re-nominated;

(*v*) a Deputy Managing Director who shall be appointed by the Central Board;

(*vi*) the secretaries of the Local Boards established by this Act; and

(*vii*) if any Local Board is hereafter established under this Act, such number of persons to represent it as the Central Board may prescribe.

(*2*) The Directors specified in clauses (*v*) and (*vi*) of sub-section (*1*) shall be at liberty to attend all meetings of the Central Board and to take part in its deliberations, but shall not be entitled to vote on any question arising at any meeting:

Provided that the Deputy Managing Director shall be entitled to vote in the absence of the Managing Director.

(*3*) The [2][Central Government] shall nominate an [3][officer of the Crown] to attend the meetings of the Central Board, and such officer shall be entitled to attend all meetings of the Central Board and to take part in its deliberations but shall not be entitled to vote on any question arising at any meeting.]

Constitution of other Local Boards.

29. (*1*) Where the Central Board establishes any additional local head office of the Bank in [4][the Provinces of India or Pakistan or in Burma], a Local Board shall be constituted to manage the local business of the Bank.

(*2*) The number of the members of any such Local Board shall be such number, not less than three, as may be prescribed and shall be appointed in such manner as may be prescribed.

30. [*Power to remove difficulties.*] *Rep. by the Imperial Bank of India (Amendment) Act, 1934 (III of 1934), s. 13.*

CHAPTER VI.

Miscellaneous.

Power of Central Board to make bye-laws.

31. (*1*) The Central Board shall, with the previous approval of the [2][Central Government], make bye-laws consistent with this Act regulating the following matters, namely:—

(*a*) the maximum amounts which may be advanced or lent to, or for which bills may be discounted for, any individual or partnership, without the security mentioned in sub-clauses (*i*) to (*iv*) of clause (*a*) of Part I of Schedule I, the conditions under which advances may be made on the said security and the extent of the sums to which accounts may be overdrawn without security ;

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[1] Subs. by the A. O. 1937 for "officers of the Govt."

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "officer of Govt."

[4] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

(*b*) the conditions subject to which alone advances may be made to [1][Directors], members of Local Boards, or officers of the Bank, or the relatives of such [1][Directors], members or officers, or to companies, firms or individuals with which or with whom such [1][Directors], members, officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise:

Provided that the bye-laws shall provide that no advance without security shall be made to any officer of the Bank without the specific sanction of the Local Board under which he is serving;

(*c*) the particulars to be contained in [2][the annual and half-yearly balance-sheets]; and

(*d*) any matter which by this Act is directed to be prescribed.

(2) The Central Board may, with the previous approval of the [3][Central Government], make bye-laws consistent with this Act regulating the following matters or any of them, namely:—

(*a*) the keeping of the register and branch registers of shareholders;

(*b*) the distribution of business amongst the [1][Directors] and their remuneration, if any ;

(*c*) the distribution of business amongst the members of a Local Board and their remuneration, if any ;

(*d*) the delegation of any powers of the Central Board or of a Local Board to committees consisting of [1][Directors] or members, as the case may be ;

(*e*) the procedure to be followed at the meetings of the Central or Local Boards or of any committees thereof ;

(*f*) the first appointment and the appointment of members of a Local Board established under this Act ;

(*g*) the powers of Local Boards established by or under this Act ;

(*h*) the localities in and with respect to which such Local Boards shall exercise their powers ;

(*i*) the books and accounts to be kept at the local head offices of the Bank ;

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 14, for "Governors".

[2] Subs. by s. 14, *ibid.*, for "the half-yearly balance-sheet".

[3] Subs. by the A. O. 1937 for "G. G. in C."

(*j*) the renewal of certificates of shares which have been worn out or lost;

(*k*) the conduct and defence of legal proceedings and the manner of signing pleadings;

(*l*) the constitution and management of pension and provident funds for the officers and servants of the Bank;

(*m*) all matters which are by this Act permitted to be prescribed; and

(*n*) generally, the conduct of the business of the Bank.

References to Presidency Banks.

32. (*1*) The references in sections [1]188, 189 and 289 of the Indian Companies Act, 1913, and references in any other enactment to the Presidency Banks or any of them shall be deemed to be references to the Bank. VII of 1913.

(*2*) Where by any instrument power is given to invest in, to hold or to exercise any rights in regard to shares or stock in a Presidency Bank, then that power may be exercised as if the same power were given by such instrument in regard to shares in the Bank.

(*3*) A power of attorney in favour of a Presidency Bank or in favour of a Presidency Bank and its officers shall be deemed, as the case may be, to be a power of attorney in favour of the Bank or of the Bank and its officers.

33. [*Amendment of s. 11 (3) of Act VII of 1913.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

34. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927).*

SCHEDULE I.

(*See section 8.*)

PART I.

Business which the Bank is authorised to carry on and transact.

The Bank is authorised to carry on and transact the several kinds of business hereinafter specified, namely:—

(*a*) the advancing and lending money, and opening cash-credits upon the security of—

(*i*) stocks, funds and securities (other than immoveable property) in which a trustee is authorised to invest trust money by any Act of Parliament of the United Kingdom or by any [2][Indian, [3][Pakistan] or

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[1] Ss. 188 and 189 of the Indian Companies Act, 1913 (7 of 1913), have since been amended by the Indian Companies (Amendment) Act, 1936 (22 of 1936), ss. 101 and 102, and do not now contain any reference to the Presidency Banks.

[2] Subs. by the A. O. 1937 for "Act of the G. G. in C."

[3] Ins. by the A. O. 1948.

Burman law,] [1]* * any securities of [2][a State ~~Provincial~~ Government, the Government of Burma] or the Government of Ceylon [3][and shares of the Reserve Bank of India];

(*ii*) such securities issued by State-aided railways as have been notified by the [4][Central Government] under section 36 of the Presidency Banks Act, 1876, or may be notified by [5][it] under this Act in that behalf ;

XI of 1876

(*iii*) debentures or other securities for money issued under the authority of [6][any Central Act or an Act of the Legislature of a Part A State or any Act of a Legislature established in a Province of India or Pakistan or in Burma] by, or on behalf of, a district board [3][or a municipal board or committee or, with the sanction of the [4][Central Government], debentures or other securities for money issued under the authority of [7][the Government of a Part B ~~any~~ State or of a State which has acceded to ~~India~~ or Pakistan ~~or of any~~ other ~~Indian State~~]];

[3][(*iiia*) subject to such directions as may be issued by the Central Board, debentures of companies with limited liability whether registered in India or elsewhere;]

(*iv*) goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits ;

[3][(*iva*) goods which are hypothecated to the Bank as security for such advances, loans or credits, if so authorised by special directions of the Central Board ;]

(*v*) accepted bills of exchange and promissory notes endorsed by the payees and joint and several promissory notes of two or more persons or firms unconnected with each other in general partnership ; and

(*vi*) fully paid shares [8]* * of companies with limited liability or immoveable property or documents of title relating thereto as collateral security only where the original security is one of those specified in sub-clauses (*i*) to (*iv*), and [9][subject to such directions as may be issued by the Central Board], where the original security is of the kind specified in sub-clause (*v*):

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[1] The word " and " rep. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 15.

[2] Subs. by the A. O. 1937 for " a L. G."

[3] Ins. by Act 3 of 1934, s. 15.

[4] Subs. by the A. O. 1937 for " G. G. in C."

[5] Subs. by the A. O. 1937 for " him ".

[6] Subs. by the A. O. 1948 for " any Act of a legislature established in British India or British Burma ". The words " or British Burma " had been ins. by the A. O. 1937.

[7] Subs. by the A. O. 1948 for " a Prince or Chief of any State in India ".

[8] The words " and debentures " rep. by s. 15 of Act 3 of 1934.

[9] Subs. by s. 15, *ibid.*, for " if so authorised by any general or special directions of the Central Board ".

(Schedule I.—Part I.—Business which the Bank is authorised to carry on and transact.)

[1][Provided that any advances or loans which, under the law for the time being in force, any of the following Governments or authorities, that is to say, ~~the~~ Secretary of State, [2][the Central Government or ~~any~~ the Provincial Government ~~in~~ of a Part A State India, the Central Government or any Provincial Government in Pakistan], the Government of Burma or the Burma Railway Board, may lawfully accept from the Bank may, if the Central Board think fit, be made without any specific security ;]

(*b*) the selling and realisation of the proceeds of sale of any such promissory notes, debentures, stock-receipts, bonds, annuities, stock, shares, securities or goods which, or the documents of title to which, have been deposited with, or [3][pledged, hypothecated, assigned or transferred to], the Bank as security for such advances, loans or credits, or which are held by the Bank or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not been redeemed in due time in accordance with the terms and conditions (if any) of such deposit, [4][pledge, hypothecation, assignment or transfer];

(*c*) the advancing and lending money to Courts of Wards upon the security of estates in their charge or under their superintendence and the realisation of such advances or loans and any interest due thereon, provided that no such advance or loan shall be made without the previous sanction of the [5][Provincial Government] concerned, and that the period for which any such advance or loan is made shall not exceed [6][nine months in the case of advances or loans relating to the financing of seasonal agricultural operations or six months in other cases];

(*d*) the drawing, accepting, discounting, buying and selling of bills of exchange and other negotiable securities *[7] * *;

(*e*) the investing of the funds of the Bank upon any of the securities specified in sub-clauses (*i*) to (*iii*) of clause (*a*) and converting the same into money when required, and altering, converting and transposing such investments for or into others of the investments above specified ;

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[1] Subs. by the A. O. 1937 for the original proviso.

[2] Subs. by the A. O. 1948 for "any Government in British India, the Federal Railway Authority".

[3] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 15, for "assigned to".

[4] Subs. by s. 15, *ibid.*, for "or assignment".

[5] Subs. by the A. O. 1937 for "L. G."

[6] Subs. by Act 3 of 1934, s. 15, for "six months".

[7] Certain words were rep. by s. 15, *ibid.*

(*f*) the making, issuing and circulating of bank-post-bills and letters of credit [1]* * * to order or otherwise than to the bearer on demand ;

(*g*) the buying and selling of gold and silver whether coined or uncoined ;

(*h*) the receiving of deposits and keeping cash accounts on such terms as may be agreed on ;

(*i*) the acceptance of the charge of plate, jewels, title-deeds or other valuable goods on such terms as may be agreed on ;

(*j*) the selling and realising of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims, [2][and the acquisition and holding of, and generally the dealing with, any right, title or interest in any property, moveable or immoveable, which may be the Bank's security for any loan or advance or may be connected with any such security];

(*k*) the transacting of pecuniary agency business on commission [2][and the entering into of contracts of indemnity, suretyship or guarantee with specific security or otherwise];

(*l*) [3][the administration of estates for any purpose whether as an executor, trustee or otherwise] and the acting as agent on commission in the transaction of the following kinds of business, namely:—

(*i*) the buying, selling, transferring and taking charge of any securities or any shares in any public Company ;

(*ii*) the receiving of the proceeds whether principal, interest or dividends, of any securities or shares ;

(*iii*) the remittance of such proceeds [4]* * * by public or private bills of exchange, payable either in India or elsewhere ;

(*m*) the drawing of bills of exchange and the granting of letters of credit payable out of India [5]* * * ;

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[1] The words "made payable in India, or in Ceylon," rep. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 15.

[2] Ins. by s. 15, *ibid.*

[3] Subs. by s. 15, *ibid.*, for "the acting as administrator, executor or trustee for the purpose of winding up estates".

[4] The words "at the risk of the principal" rep. by s. 15, *ibid.*

[5] The words "for the use of principals for the purpose of the remittances mentioned in clause (*l*) and also for private constituents for *bonâ fide* personal needs" rep. by s. 15, *ibid.*

(Schedule I.—Part I.—Business which the Bank is authorised to carry on and transact.—Part II.—Business which the Bank is not authorised to carry out or transact.)

(*n*) the buying [1]* * * of bills of exchange payable out of India, at any usance not exceeding [2][nine months in the case of bills relating to the financing of seasonal agricultural operations or six months in other cases];

(*o*) the borrowing of money [3]* * for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

[4][(*p*) the subsidizing from time to time of the pension funds of the Presidency Banks; and]

(*q*) generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business [5][including foreign exchange business,] hereinbefore specified.

PART II.

Business which the Bank is not authorised to carry out or transact.

The Bank shall not transact any kind of banking business other than those specified in Part I and in particular—

(*1*) It shall not make any loan or advance—

(*a*) for a longer period than six months [5][except as provided in clause (*c*) and clause (*n*) of Part I], or

(*b*) upon the security of stock or shares of the Bank, or

(*c*) save in the case of the estates specified in clause (*c*) of Part I, upon mortgage or in any other manner upon the security of any immoveable property, or the documents of title relating thereto.

(*2*) The Bank shall not (except upon a security of the kind specified in sub-clauses (*i*) to (*iv*) of clause (*a*) of Part I) discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed, or lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed.

(*3*) The Bank shall not discount or buy, or advance and lend, or open cash-credits on the security of any negotiable instrument of any individual or partnership-firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

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[1] The words "for the purpose of meeting such bills or letters of credit," rep. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 15.

[2] Subs. by s. 15, *ibid.*, for "six months".

[3] The words "in India" rep. by s. 15, *ibid.*

[4] Subs. by s. 15, *ibid.*, for the original clause.

[5] Ins. by s. 15, *ibid.*

(*4*) The Bank shall not discount or buy, or advance and lend or open cash-credits on the security of any negotiable security [1][not being a security in which a trustee may invest trust money under section 20 of the Indian Trusts Act, 1882,] [2][or the corresponding provisions for the time being in force in [3][Pakistan or Burma]] having at the date of the proposed transaction a longer period to run than [4][nine months if a bill drawn for the purpose of financing seasonal agricultural operations and six months in other cases] or, if drawn after sight, drawn for a longer period than [4][nine months if a bill drawn for the purpose of financing seasonal agricultural operations and six months in other cases]:

II of 1882

Provided that nothing in this Part shall be deemed to prevent the Bank from allowing any person who keeps an account with the Bank to overdraw such account, without security, to such extent as may be prescribed.

SCHEDULE II.

REGULATIONS OF THE BANK.

(*See section 22.*)

Share certificates.

1. Every person whose name is entered as a shareholder in the register of shareholders shall, without payment, be entitled to a certificate under the common seal of the Bank or if the certificate relates to shares registered in a branch register under the official seal of the Bank specifying the share or shares held by him and the amount paid up thereon: Provided that, in respect of a share or shares held jointly by several persons, the Bank shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint-holders shall be sufficient delivery to all.

Lien.

Bank's lien on shares.

2. The Bank shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Bank shall also have a lien on all shares standing registered in the name of a single person for all moneys presently payable by him or his estate to the

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[1] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 15.
[2] Ins. by the A. O. 1937.
[3] Subs. by the A. O. 1948 for "Burma".
[4] Subs. by Act 3 of 1934, s. 15, for "six months".

Bank. The Bank's lien, if any, on a share shall also extend to all dividends payable thereon.

Power to sell for default.

3. The Bank may sell, in such manner as it thinks fit, any shares on which it has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or to the person entitled by reason of his death or insolvency to the share.

Disposal of proceeds of sales.

4. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable, as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase-money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares.

Calls.

5. The Bank may, from time to time, make calls upon the shareholders in respect of any moneys unpaid on their shares, provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than two months from the last call; and each shareholder shall (subject to receiving at least two months' notice specifying the time or times of payments) pay to the Bank at the time or times so specified the amount called on his shares.

Liability of joint-holders.

6. The joint-holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

Liability to pay interest on unpaid calls.

7. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of ten per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the Central Board shall be at liberty to waive payment of that interest wholly or in part.

Transfer and transmission of Shares.

Execution of transfers.

8. The instrument of transfer of any share in the Bank shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain holder of the share until the name of the transferee is entered in the register of shareholders in respect thereof.

Form of transfers.

9. Shares in the Bank shall be transferred in the following Form, or in any usual or common Form which the [1][Bank] shall approve:—

I, A B of , in consideration of the sum of rupees paid to me by C D of . (hereinafter called "the said transferee") do hereby transfer to the said transferee the share [or shares] numbered in the Imperial Bank of India to hold unto the said transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution thereof, and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid.

As witness our hands the day of ,

Witness to the signature of, etc.

Power to decline to register transfers.

10. The Bank may decline to register any transfer of shares, not being fully paid shares, to a person of whom it does not approve, and may also decline to register any transfer of shares on which the Bank has a lien [2][or any transfer of shares to any person who is a minor or has been found by a Court of competent jurisdiction to be of unsound mind or to or in the name of any firm]. The Bank may also suspend the registration of transfers for any period during which it has under the provisions of this Act directed that the registers shall be closed.

The Bank may decline to recognise any instrument of transfer unless—

(*a*) a fee not exceeding two rupees is paid to the Bank in respect thereof; and

(*b*) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Bank may reasonably require to show the right of the transferor to make the transfer.

Deceased shareholders.

XXXIX of 1925.

[3][**11.** The executors or administrators of a deceased sole holder of a share, the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925, in respect of the share, and a person in whose favour a valid instrument of transfer of the share was executed by the deceased holder during his lifetime, shall be the only persons who may be recognised by the Bank as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor and, on the death of the last survivor, his

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 16, for "Central Board".

[2] Ins. by s. 17, *ibid.*

[3] Subs. by s. 18, *ibid.*, for the original regulation.

executors or administrators or any person who is the holder of a succession certificate in respect of such survivor's interests in the share, and a person in whose favour a valid instrument of transfer of the share was executed by such survivor during his lifetime, shall be the only persons who may be recognised by the Bank as having any title to the share.]

Death or insolvency of shareholders.

12. Any person becoming entitled to a share in consequence of the death or insolvency of a shareholder [1][or in consequence of a transfer by a deceased shareholder during his lifetime] shall, upon such evidence being produced as may be required by the Bank, have the right [1][, subject to the provisions of regulation 10,] either to be registered as a shareholder in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or insolvent person could have made; [2]* * *.

Rights of persons acquiring shares on death or insolvency of shareholder.

13. Any person becoming entitled to a share in consequence of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred on a shareholder in relation to meetings of the Bank.

Forfeiture of Shares.

Failure to pay call.

14. If a shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Central Board may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

Form of notice.

15. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.

Forfeiture of shares.

16. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Central Board to that effect.

Disposal of forfeited shares.

17. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Central Board thinks fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Central Board thinks fit.

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[1] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 19.
[2] Certain words rep. by s. 19, *ibid.*

Liability of shareholders after forfeiture.

18. A person whose shares have been forfeited shall cease to be a shareholder in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Bank all moneys which, at the date of forfeiture, were presently payable by him to the Bank in respect of the shares, but his liability shall cease if and when the Bank receives payment in full of the nominal amount of the shares.

Alteration of Capital.

Power to increase or reduce capital.

19. The shareholders of the Bank may, by special resolution [1]* * *, increase or [2][, with the previous sanction of the [3][Central Government],] reduce the capital of the Bank:

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the shareholders, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and the majority of such shareholders have voted either by show of hands or by poll, as the case may be, in favour of the said resolution.

Procedure on resolution to increase capital.

20. When any such special resolution to increase the capital has been passed, the Central Board may, subject to the provisions of this Act and to the special directions (if any) given in reference thereto by the meeting at which such resolution has been passed—

(*a*) make such orders as it thinks fit for the opening of subscriptions by the shareholders towards such increase of capital ;

(*b*) allow to the shareholders such period to fill up the subscription as it thinks fit ;

(*c*) direct the manner in which the shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe ; and

(*d*) make such orders as it thinks fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in the manner aforesaid.

New shares.

21. Any new shares shall be subject to the same provision with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original capital.

Procedure on resolution to reduce capital.

22. When any such special resolution to reduce the capital has been passed, the Central Board may (subject as aforesaid) determine the manner in which the reduction shall be carried into effect.

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[1] The words "and with the previous sanction of the G. G. in C." rep. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 20.

[2] Ins by s. 20, *ibid.*

[3] Subs. by the A. O. 1937 for "G. G. in C."

(Schedule II.—Regulations of the Bank.)

Meetings of Shareholders.

Annual general meeting.

23. (*1*) On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held at such time and at such town where there is a local head office of the Bank as shall from time to time be prescribed by the Central Board, at which meeting the Central Board shall submit to the shareholders a [1][balance-sheet] of the Bank made up to the preceding thirtieth day of June:

Provided that such general meeting shall not be held on two consecutive occasions at any one town in which there is a local head office of the Bank.

(*2*) A notice convening such meeting, signed by [2][the Managing Director or Deputy Managing Director], shall be published in the [3][Official Gazette] and in such other manner as the Central Board may direct at least fifteen days before the meeting is held.

Special meeting.

[4][**24.** (*1*) The Central Board shall convene a special meeting on the requisition of any three Directors or of not less than one hundred shareholders holding shares whether fully paid up or otherwise of the aggregate amount of not less than five hundred thousand rupees, upon which all calls or other sums due have been paid, if such requisition is signed by the requisitionists and addressed to the Managing Director or Deputy Managing Director and contains a statement of the object of the proposed meeting.

(*2*) The requisition may consist of several documents in like form, each signed by one or more of the requisitionists.

(*3*) Sixty days' previous notice of any such meeting shall be given by the Central Board under the hand of not less than three Directors, and such notice shall state the purpose for which the meeting is convened and the time and place of such meeting, and shall be advertised in the [3][Official Gazette] and in not less than three daily newspapers, of which one shall be a newspaper published in the vernacular:

Provided that not less than three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank.

(*4*) The place of such meeting shall be the place where the head office of the Bank is situated at the time of the meeting.

(*5*) If the Central Board does not proceed within 21 days from the date of deposit of the requisition referred to in sub-sections (*1*) and (*2*) to cause a meeting to be called, the requisitionists, or a majority of them in value, may themselves call the meeting, but in either case any meeting so called shall be held within three months from the date of deposit of the requisition.]

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 21, for "statement of the affairs".

[2] Subs. by s. 21, *ibid.*, for "a Managing Governor".

[3] Subs. by the A. O. 1937 for "Gazette of India".

[4] Subs. by Act 3 of 1934, s. 22, for the original regulation.

Quorum.

25. (*1*) No business shall be transacted at any meeting, whether general or special, unless a quorum of two hundred shareholders, in person or by proxy, is present at the commencement of such business.

(*2*) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by shareholders not being [1][Directors], shall be dissolved; in any other case, it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, those shareholders who are present shall be a quorum.

Decision by majority of votes.

26. (*1*) Save as is otherwise provided in this Act in regard to resolutions for the increase or reduction of capital or for the removal of a [2][Director], every election and every matter submitted to a meeting, whether general or special, shall be decided by a majority of votes.

(*2*) No shareholders shall be allowed to vote at any such meeting in respect of any share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

(*3*) No shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

Power to declare resolution carried by show of hands.

27. Save as otherwise provided in this Schedule a declaration by the chairman of any meeting, that a resolution has been carried or rejected thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of that fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by ten shareholders present and entitled to vote at such meeting.

Poll to be taken if duly demanded.

28. If a poll be duly demanded, it shall be taken either at once or at such time and place and, save as otherwise provided in this Act, either by open voting or by ballot, as the chairman directs, and the result of the poll shall be deemed to be the ressolution of the meeting at which the poll was demanded.

Proceedings and resolutions at meetings to be binding.

29. The proceedings at any meeting and all resolutions and decisions of such meeting shall be valid and binding on the Bank so far as such proceedings, resolutions and decisions are consistent with the provisions of this Act.

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 23, for "Governors".

[2] Subs. by s. 24, *ibid.*, for "Governor".

(*Schedule II.—Regulations of the Bank.*)

Votes of Members.

Votes.

30. On a show of hands every shareholder present in person shall have one vote. On a poll every shareholder shall have one vote for every four shares of which he is the holder.

Votes of joint-holders.

31. In the case of joint-holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint-holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of shareholders.

Votes on behalf of lunatics and minors.

32. A shareholder of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee or other legal guardian, and a shareholder who is a minor may similarly vote by his guardian and any such committee or guardian may, on a poll, vote by proxy.

Shareholders in default.

33. No shareholder shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Bank have been paid.

Poll.

34. On a poll votes may be given either personally or by proxy.

Form of proxies.

35. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing. No person shall act as a proxy unless either he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

Deposit of proxies.

36. The instrument appointing a proxy and the power-of-attorney or other authority (if any), under which it is signed, or a notarially certified copy of that power or authority, [1][or, in the case of a power-of-attorney previously deposited and registered with any local head office, a certificate of the secretary of such local head office as to such deposit and registration], shall be deposited at the head office of the bank in the place where the meeting is to be held not less than ninety-six hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

Local Meetings.

Annual local meeting.

37. A general meeting of the shareholders on a branch register shall be held once in every year at the local head office of the Bank at which the branch register is kept. It shall be held on such date as the Central Board may direct.

Procedure at local meeting.

38. The foregoing provisions of this Schedule as to the convening of general and special meetings and procedure at meetings shall, so far as may be, apply to local and special local meetings of the shareholders on a branch register:

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[1] Ins. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 25.

Provided that references in the said provisions to shareholders shall be deemed to be references to shareholders on the branch register, and references to [1][Directors, the Managing Director or Deputy Managing Director] and the [2][Official Gazette] shall be deemed to be references, respectively, to the members of the Local Board, Secretaries and to the local official Gazette:

Provided, further, that ten or more shareholders holding shares to the aggregate amount of fifty thousand rupees may convene a special local meeting and that the number of shareholders to constitute a quorum and to demand a poll in the case of a local meeting shall be, respectively, twenty and five.

Qualifications and disqualifications of [3][Directors] and others.

Qualification and disqualification of Directors and of members of Local Boards.

39. (*1*) No person shall be qualififid to serve as a [4][Director] or as a member of a Local Board who is not a holder in his own right of unencumbered shares of the Bank, to the nominal amount of ten thousand rupees at the least:

Provided that this provision shall not apply in the case of a person who is an officer of the Bank or is nominated [5]* * by the [6][Central Government].

(*2*) No person shall be qualified to serve as a [4][Director] or as a member of a Local Board—

if he holds the office of director, provisional director, promoter, agent or manager of any joint-stock bank established or having a branch or agency in [7][~~any Province of~~ India or Pakistan or in Burma], or advertised as about to be established or to have a branch or agency in [7][any Province of India or Pakistan or in Burma]:

Provided that this disqualification shall not apply to any person, being a director of a joint-stock bank, who may be nominated as a [8][Director under the provision of clause (*iv*)] of sub-section (*1*) of section 28; or

if he is a salaried [9][officer of the Crown] not specially authorised by this Act or by the [6][Central Government] to serve as a member;

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 26, for "Governors, Managing Governors".

[2] Subs. by the A. O. 1937 for "Gazette of India".

[3] Subs. by Act 3 of 1934, s. 27, for "Governors".

[4] Subs. by s. 27, *ibid.*, for "Governor".

[5] The words "or appointed" rep. by s. 27, *ibid.*

[6] Subs. by the A. O 1937 for "G. G. in C."

[7] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

[8] Subs. by Act 3 of 1934, s. 27, for "Governor under the provision of clause (*iii*)".

[9] Subs. by the A. O. 1937 for "officer of Govt."

(Schedule II.—Regulations of the Bank.)

[1][and the office of a Director] or a member of the Local Board shall be vacated—

if the person holding it resigns his office or dies;
if he accepts or holds any other office of profit under the Bank;
if he becomes insolvent or bankrupt, or compounds with his creditors;
if he is declared lunatic, or becomes of unsound mind;
if he is absent from the Central Board or the Local Board, as the case may be, for more than six consecutive months; or
if he ceases to hold in his own right the amount of shares required to qualify him for the office.

(*3*) No two persons who are partners of the same mercantile firm, or are directors of the same private company, or one of whom is the general agent of, or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as members of the Central Board [2][of the same Local Board], at the same time.

Removal of [3][Directors] and members of Local Boards.

Removal of Directors.

40. The shareholders may, by a special resolution passed by a majority of the votes of shareholders holding in the aggregate not less than one-half of the capital, remove any [4][Director] [5][(other than a Director nominated by the [6][Central Government])] before the expiration of his period of office, and appoint, in his stead, a qualified person, who shall in all respects stand in his place.

Removal of member of Local Board.

41. The shareholders on a branch register may, by a special local resolution passed by the votes of shareholders holding in the aggregate not less than one-half of the capital on the branch register, remove any member of the Local Board before the expiration of his period of office, and appoint, in his stead, a qualified person who shall in all respects stand in his place.

Meetings of Central Board.

Meetings of Central Board.

42. (*1*) Meetings of the Central Board shall be convened not less than once in every [7][four] months by [8][the Managing Director or

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 27, for "and the office of a Governor".

[2] Subs. by s. 27, *ibid.*, for "a Local Board or of the Central Board and a Local Board".

[3] Subs. by s. 28, *ibid.*, for "Governors".

[4] Subs. by s. 28, *ibid.*, for "Governor".

[5] Subs. by s. 28, *ibid.*, for "(other than a Governor nominated or appointed by the G. G. in C.)".

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] Subs. by Act 3 of 1934, s. 29, for "three".

[8] Subs. by s. 29, *ibid.*, for "a Managing Governor"

Deputy Managing Director] and a meeting of the Central Board shall be held once at least in every year [1][at each of the local head offices established at Calcutta, Bombay and Madras:

Provided that not less than four meetings shall be convened by the Managing Director or Deputy Managing Director in every year.]

(*2*) Any Local Board may require [2][the Managing Director or Deputy Managing Director] to convene a meeting of the Central Board at any time and [2][the Managing Director or Deputy Managing Director] shall forthwith convene a meeting accordingly.

(*3*) Four [3][Directors] entitled to vote shall form a quorum for the transaction of business.

(*4*) At each meeting of the Central Board the [3][Directors] present shall elect from among themselves a chairman for such meeting, who, if he is entitled to vote, shall have a second or casting vote in all cases of an equal division of votes.

Local Boards.

Term of office and number of members of Local Boards.

43. (*1*) At the first general local meeting after the commencement of this Act, and at the annual general local meeting thereafter, the two members of the Local Board who have been longest in office as members thereof shall go out of office. The vacancies shall be filled by election at a general or special local meeting.

(*2*) Any member so retiring may be re-elected; and if any question arises as to which of the members who have been the same time in office shall retire, the question shall be decided by the Local Board by ballot.

(*3*) Subject to any bye-laws which may be prescribed, the number of members of any Local Board may be varied by a special local resolution.

(*4*) Three of the members of a Local Board shall form a quorum for the transaction of business.

(*5*) Meetings of a Local Board shall be convened by the president, vice-president or, in their absence, the senior member of the Board, whenever he thinks fit.

President, vice-president and chairman.

44. [4][(*1*) At the first meeting of the Local Board which takes place after the first meeting of the Central Board in each year, the Local Board shall elect from among its members a president and a vice-president and the elected Director referred to in clause (*ii*) of sub-section (*1*) of section 28. They shall contiune in their respective offices until the first meeting of the Local Board after the first meeting of the Central Board in the following year, and, whenever the office of president or vice-president or of such elected Director becomes vacant, the Local

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 29, for "at every local head office established by this Act".

[2] Subs. by s. 29, *ibid.*, for "a Managing Governor".

[3] Subs. by s. 29, *ibid.*, for "Governors".

[4] Subs. by s. 30, *ibid.*, for the original sub-section.

Board shall at its next meeting elect a successor who shall hold office for the unexpired portion of the period for which his predecessor was appointed.]

(*2*) The president or, in his absence, the vice-president shall be chairman at all meetings of the Local Board [1][at all general or special meetings held in the town where the Local Board is established] and at all general or special local meetings:

Provided that, if both the president and vice-president be absent at any meeting, the persons present at such meeting shall elect a chairman from among [2][the members of the Local Board present].

(*3*) The chairman shall have a second or casting vote in all cases of an equal division of votes.

Vacancies.

45. (*1*) Any vacancy occurring on a Local Board by the death, resignation or disqualification of any member shall be filled up by the remaining members who shall co-opt a duly qualified person to fill the vacancy.

(*2*) Any member so appointed shall be considered to have held office from the date on which the member in whose place he is appointed was elected or, when such member was appointed under this clause, from the date on which his mediate or immediate predecessor was elected, as the case may be.

General provisions as to Central and Local Boards.

Proceedings of Boards not invalidated by vacancies.

46. No act or proceeding of the Central Board or of a Local Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among its [3][Directors] or members.

Acts of members of Boards valid notwithstanding subsequent discovery of disqualification.

47. All acts done by any person acting in good faith as a [4][Director] or as a member of a Local Board shall be as valid as if he was a member of the Central or Local Board, as the case may be, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.

Indemnity of members of Boards.

48. (*1*) Every [4][Director] and every member of a Local Board shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

(*2*) A [4][Director] shall not nor shall a member of a Local Board be responsible for any other [4][Director] or member or for any officer or servant of the Bank or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

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[1] Ins. by the Imperial Bank of India (Amendment) Act 1934 (3 of 1934), s. 30.
[2] Subs. by s. 30, *ibid.*, for " themselves ".
[3] Subs. by s. 31, *ibid.*, for " Governors ".
[4] Subs. by s. 31, *ibid.*, for " Governor ".

The Seals.

Common seal.

49. (*1*) The common seal of the Bank shall not be affixed to any instrument except in the presence of at least three [1][Directors] including [2][the Managing Director or Deputy Managing Director], who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

(*2*) The Bank shall have for use by the Local Boards at Calcutta, Madras and Bombay, and may have for the use of other Local Boards established under this Act, official seals which shall be facsimiles of the common seal of the Bank with the addition of the name of the local head office where it is to be used.

(*3*) The official seal shall be affixed to the certificates issued in respect of any shares entered in the branch registers kept at those places and may be used for such other purposes as may be prescribed.

(*4*) An instrument to which an official seal is duly affixed shall bind the Bank as if it had been sealed with the common seal of the Bank.

(*5*) An official seal shall not be affixed to any instrument except in the presence of at least two members of the Local Board and the secretary [3][or deputy secretary] who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person who may sign the instrument as a witness. Unless so signed as aforesaid such instrument shall be of no validity.

Officers of the Bank.

Appointment, salaries, suspension and removal of officers.

50. The Central Board and, subject to the provisions of this Act, the Local Boards shall have power—

(*a*) to appoint such officers and servants as may be necessary to conduct the business of the Bank,

(*b*) to grant salaries, pensions and other emoluments to such officers and servants [4][and to grant gratuities or other financial assistance, either temporary or permanent, to widows, children or other dependants of deceased officers or servants], and

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 32, for " Governors ".

[2] Subs. by s. 32, *ibid.*, for " a Managing Governor ".

[3] Ins. by s. 32, *ibid.*,

[4] Ins. by s. 33, *ibid.*

(*c*) to suspend or remove any officer or servant of the Bank.

Accounts, receipts and documents of Bank by whom to be signed.

51. The Managing [1][Director and Deputy Managing Director], the secretaries and such other [2][employees] of the Bank as the Central Board may authorise in this behalf by notification in the [3][Official Gazette] are hereby severally empowered, for and on behalf of the Bank, to endorse and transfer promissory notes, stock-receipts, stock-debentures, shares, securities and documents of title to goods, standing in the name of or held by the Bank, and to draw, accept and endorse bills of exchange, bank-post-bills, and letters of credit, in the current and authorised business of the Bank, [4]* * to sign all other accounts, receipts and documents connected with such business [5][and to execute proxies to vote at meetings on behalf of shareholders from whom the Bank holds general powers-of-attorney].

Officers forbidden to engage in other commercial business.

52. No Managing [6][Director], secretary, inspector, manager, or accountant in the service of the Bank, and, without the previous sanction of the Board, no *khazanchi,* cashier or shroff in the service of the Bank and no agent, at any branch or agency of the Bank, shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker or agent for the sale or purchase of Government or other securities.

Security from officers.

53. Every person appointed to hold or act in any one or more of the said offices, and every other officer from whom the Central Board may think fit to require it shall give security to the Bank for the faithful discharge of his duty to the satisfaction of the Central Board in such amount and in such manner as it thinks proper. The security to be given as aforesaid by the person holding or acting in the office of secretary shall not be in a less amount than fifty thousand rupees.

Accounts and Dividends.

Books to be balanced twice a year.

54. (*1*) The Central Board shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 34, for " Governors ".

[2] Subs. by s. 34, *ibid.*, for " officers ".

[3] Subs. by the A. O. 1937 for " Gazette of India ".

[4] The word " and " rep. by Act 3 of 1934, s. 34.

[5] Ins. by s. 34, *ibid.*

[6] Subs. by s. 35, *ibid*, for " Governor ".

(*2*) A statement of the balance at every such period, signed by a majority of the [1][Directors] shall be forthwith sent to the [2][Central Government.]

[3][(*3*) The statement of the balance shall contain the particulars and shall be in the form required by section 132 of the Indian Companies Act, 1913, and the provisions of that section and of section 136 of the same Act, shall apply to the Bank in like manner as they apply to a banking company.]

VII of 1913.

Dividends to be determined half-yearly.

55. (*1*) An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June, and a dividend shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Central Board.

(*2*) No unpaid dividend shall bear interest as against the Bank.

Transfer to Reserve.

56. The Central Board may, before declaring any dividend, set aside out of the profits of the Bank such sums as it thinks proper as a reserve or reserves which shall, at the discretion of the Central Board, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the Bank may be properly applied and pending such application may, at the like discretion, either be employed in the business of the Bank or be invested in any of the securities specified in sub-clauses (*i*) to (*iii*) of clause (*a*) of Part I of Schedule I.

Joint-holders.

57. If several persons are registered as joint-holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

Audit.

Auditors.

58. (*1*) Three auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders, but no [4][Director] or member of a Local Board or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible on quitting office for re-election.

(*2*) The first auditors of the Bank may be appointed by the Central Board before the annual general meeting and if so appointed shall hold office only until the first annual general meeting. All auditors elected under this clause shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Provided that, if any casual vacancy occurs in the office of any auditor elected under this section, [5][the vacancy may be filled by the Central Board].

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[1] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 36, for "Governors".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by Act 3 of 1934, s. 36, for the original sub-regulation.

[4] Subs. by s. 37, *ibid.*, for "Governor".

[5] Subs. by s. 37, *ibid.*, for "a special meeting shall be called for the purpose of supplying the same".

(*Schedule II.—Regulations of the Bank.*)

Government auditors.

59. Without prejudice to anything contained in the foregoing provisions, the [1][Central Government] may appoint such auditors as [2][it] thinks fit to examine and report upon the accounts of the Bank.

Rights and duties of auditors.

60. (*1*) Every auditor shall be supplied with a copy of the half-yearly balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto. Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it and at the expense of the [1][Central Government] if appointed by [3][it], employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine [4][any Director] or any member of a Local Board, or any officer of the Bank.

(*2*) The auditors shall make a report to the shareholders or to the [1][Central Government], as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the prescribed particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read together with the report of the Central Board at the annual general meeting.

Liquidation.

[5][**60A.** Notwithstanding anything contained in this Act or in section 271 of the Indian Companies Act, 1913, if the shareholders of the Bank pass a special resolution that the Bank be wound up voluntarily under the provisions of the Indian Companies Act, 1913, the Bank shall be wound up in accordance with the provisions of that Act with regard to the voluntary winding up of a company:

VII of 1913.

VII of 1913.

Provided that, for the purposes of this section, no such special resolution shall be deemed to have been passed unless at least one-third of the shareholders holding at least one-half of the paid-up capital of the Bank for the time being be present in person or by proxy and a majority poll by open voting in favour of the said resolution and such resolution is thereafter confirmed by a majority of the shareholders at a subsequent special meeting held at an interval of not less than two months or more than three months from the date of the meeting at which the resolution was first passed.]

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1937 for "he".

[3] Subs. by the A. O. 1937 for "him".

[4] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 38, for "any Governor".

[5] This regulation was ins. by s. 39, *ibid*.

Notices.

Service.

61. (*1*) A notice may be given by the Bank to any shareholder either personally or by sending it by post to him to his registered address or (if he has no registered address in [1][any Province of India or Pakistan or in Burma]) to the address, if any, within [1][any Province of India or Pakistan or in Burma] supplied by him to the Bank for the giving of notices to him. .

(*2*) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Absence of registered address.

[2][**62.** A shareholder who has no registered address in [3][India, Pakistan or Burma] and has not supplied to the Bank an address for the giving of notices to him shall not be entitled to any notice, notwithstanding anything contained in this Act.]

Notice on joint-holders.

63. A notice may be given by the Bank to the joint-holders of a share by giving the notice to the joint-holder named first in the register in respect of the share.

Notice to legal representative.

64. Any notice given in accordance with the foregoing provisions shall be deemed to have been duly given notwithstanding that the shareholder be then deceased and whether or not that Bank had notice of his decease, and shall in that event be deemed to be a notice to his legal representative.

Service of notice on Bank.

65. A notice may be served on the Bank by leaving it at, or sending it by post to, any local head office of the Bank.

SCHEDULE III.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

Repealed by LVI/48

THE INDIAN TERRITORIAL FORCE ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
2A. Special provisions as to Sind and Orissa.
3. Constitution of Indian Territorial Force.

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[1] Subs. by the A. O. 1948 for "British India or British Burma". The words "or British Burma" had been ins. by the A. O. 1937.

[2] Subs. by the Imperial Bank of India (Amendment) Act, 1934 (3 of 1934), s. 40, for the original regulation.

[3] Subs. by the A. O. 1948 for "India or Burma". The words "or Burma" had been ins. by the A. O. 1937.

SECTIONS.

4. Constitution and disbandment of units.
4A. Classes of officers.
5. Enrolment.
6. Appointment to corps or unit.
7. Transfer and attachment.
7A. Change of residence.
8. Discharge.
9. Liability to serve and perform military service.
10. Territorial limits of liability to, and duration of, military service.
11. Application of the Army Act and of the Indian Army Act, 1911.
11A. Summary trial and punishments.
11B. Presumption as to certain documents.
12. Advisory Committees.
13. Power to make rules.
14. Power to make regulations.
15. Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.
16. Exemption from local taxation.

LV/48

ACT NO. XLVIII OF 1920.[1]

[*22nd September, 1920.*]

An Act to constitute an Indian Territorial Force [2]* *.

WHEREAS it is expedient to provide for the constitution of an Indian Territorial Force [3]* * *; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Territorial Force Act, 1920.

(*2*) It extends[4] to [5][all the Provinces of India], including [6]* the Sonthal Parganas.

(*3*) It shall come into force on the first day of October, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[7]* * * * * *

"enrolled" means enrolled or re-enrolled in the Indian Territorial Force under this Act;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 174; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 264; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1049, 1096 and 1273.

[2] The words "and to provide for the enrolment therein of persons other than European British subjects" were rep. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 2.

[3] The words "and for the enrolment therein of persons other than European British subjects who may offer themselves therefor" were rep. by s. 2, *ibid.*

[4] This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[5] Subs. by the A. O. 1948 for "the whole of British India".

[6] The words "British Baluchistan and" rep. by the A. O. 1948.

[7] The definition of "Advisory Committee" was rep. by Act 9 of 1928, s. 3.

V of 1898.

"European British subject" means any person who is a European British subject as defined in the Code of Criminal Procedure, 1898, or is a British subject of European descent in the male line ;

LVI/48

[1]["non-commissioned officer" means a person holding non-commissioned rank in the Indian Territorial Force, and includes an acting non-commissioned officer ;

"officer" means a senior officer or a junior officer ;]

"prescribed" means prescribed by rules made under this Act ; and

[2]* * * * * *

Special provisions as to Sind and Orissa.

[3][**2A.** For the purposes of this Act, the Provinces of Bombay and Sind, and the Provinces of Bihar and Orissa, shall be deemed to be one Province until in either case the Central Government by notification in the Official Gazette otherwise directs.]

Constitution of Indian Territorial Force.

3. There shall be raised and maintained in the manner hereinafter provided a force to be designated the Indian Territorial Force:

Provided that the [4][Central Government] shall establish all or any of the branches of the Force as circumstances may permit from time to time.

Constitution and disbandment of units.

4. [5][(*1*)] The [4][Central Government] may constitute for any Province one or more [6][provincial] corps or units of the Indian Territorial Force and may disband [6][or reconstitute] any corps or unit co constituted.

[6][(*2*) The [4][Central Government] may constitute for any town or group of towns in a Province one or more urban corps or units of the Indian Territorial Force, to be recruited from persons residing in or near such town or towns, and may disband or reconstitute any corps or unit so constituted.

(*3*) The [4][Central Government] may constitute for any Province a University Corps consisting of one or more units of the Territorial Force, for the appointment thereto of students of, and other persons connected with, a University established by law in [7][the provinces], or colleges affiliated to such a University, and may disband or reconstitute any unit so constituted.]

Classes of officers.

[8][**4A.** (*1*) There shall be the following classes of officers in the Indian Territorial Force, namely:—

(*a*) senior officers, holding commissions [9]* * * with British designation of rank, and

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[1] Ins. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 3.

[2] The definition of "University Corps" was rep. by s. 3, *ibid.*

[3] Ins. by the A. O. 1937.

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] The original s. 4 was renumbered as sub-section (*1*) of that section by Act 9 of 1928, s. 4.

[6] Ins. by Act 9 of 1928, s. 4.

[7] Subs. by the A. O. 1948 for "British India".

[8] S. 4A was ins. by Act 9 of 1928, s. 5.

[9] The words "granted by the Governor-General in the name of His Majesty" rep. by the A. O. 1937.

(*b*) junior officers, holding commissions [1]* [6] * with Indian designation of rank.

(2) An officer shall be deemed to be enrolled in the Indian Territorial Force for so long as he holds a commission in that Force.]

Enrolment.

5. (*1*) Any British subject [2]* * * or any subject of a State in India may offer himself for enrolment in the Indian Territorial Force, and any such person who satisfies the prescribed conditions may be enrolled in the prescribed manner for such period, not exceeding six years, as may be prescribed:

LVI/48

[3][Provided that no European British subject shall be enrolled in any corps or unit of the Indian Territorial Force other than a University Corps.]

(*2*) An applicant for enrolment may apply to be enrolled for service in any particular branch, corps or unit constituted for the Province [4][or town or group of towns] within which he for the time being resides.

[5][(*3*) The [6][Central Government] may, by notification in the [7]Official Gazette], declare in respect of any State in India the Province in which persons residing in that State may be enrolled, and persons so residing shall thereupon be deemed for all purposes of this Act to reside in that province.]

Appointment to corps or unit.

6. (*1*) Every person enrolled shall without unnecessary delay be appointed in the prescribed manner to a corps or unit constituted under section 4 for the Province [4][or town or group of twons] in which he for the time being resides.

(*2*) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

Transfer and attachment.

7. (*1*) Any person appointed to a corps or unit under section 6 may be transferred, whether on disbandment of the corps or unit or otherwise, to another corps or unit of the Indian Territorial Force, in such manner as may be prescribed.

(*2*) Nothing contained in sub-section (*1*) shall be deemed to authorise the transfer without his own consent of any person enrolled to a corps or unit constituted for a Province [4][or town or group of towns] other than that in which he for the time being resides, or of a person enrolled for service in a particular branch to a crops or unit of another branch, or of a person enrolled for service in a particular corps or unit to any other corps or unit [4][or of a person enrolled in an urban corps or unit to a provincial corps or unit].

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[1] The words "granted by the Governor General" rep. by the A. O. 1937.

[2] The words and brackets "(not being a European British subject)" rep. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 6.

[3] Ins. by s. 6, *ibid.*

[4] Ins. by s. 7, *ibid.*

[5] Ins. by the Indian Territorial Force (Amendment) Act, 1929 (13 of 1929), s. 2.

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] Subs. by the A. O. 1937 for "Gazette of India".

(*3*) Any person enrolled may be attached at his own request to any corps or unit of the Indian Territorial Force or to any regular forces.

Change of residence.

[1][7A. (*1*) Any enrolled person who leaves his place of residence for the time being and thereby leaves the Province in which the corps or unit in which he is serving is constituted shall, if he does not intend to return to that Province, notify the prescribed authority in that Province of his change of residence.

(*2*) If such person having intended to return does not return within three months, he shall notify the prescribed authority as aforesaid immediately on the expiry of that period.

c VI/48

(*3*) The prescribed authority on being notified of a change of residence under sub-section (*1*) or sub-section (*2*) may, subject to the provisions of section 7, transfer such person from the corps or unit in which he is serving to another corps or unit.]

Discharge.

8. Every person enrolled shall be entitled to receive his discharge from the Indian Territorial Force on the expiration of the period for which he was enrolled, and any such person may, prior to the expiration of that period, be discharged from the said Force by such authority and subject to such conditions as may be prescribed, and shall be so discharged on a recommendation of the Advisory Committee in this behalf:

Provided that no person enrolled who is for the time being engaged in military service under the provisions of this Act shall be entitled to receive his discharge before the termination of such service.

Liability to serve and perform military service.

9. (*1*) Every person enrolled shall, subject to such conditions as may be prescribed, be bound to serve in any corps or unit of the Indian Territorial Force to which he has been appointed or transferred or is for the time being attached, and shall be subjeect to all rules and regulations that may be made under this Act relating to such corps or unit.

(*2*) Every person enrolled [2][who has attained the age of eighteen years] shall be liable to perform military service—

(*a*) when called out with any portion of the Indian Territorial Force by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential ; or

(*b*) when any portion of the Indian Territorial Force to which he belongs has been embodied to support or supplement His Majesty's regular forces in India in the event of an emergency by a notification directing such embodiment issued by the [3][Central Government] and published in the [4][Official Gazette] ; or

(*c*) when attached at his own request to any regular forces:

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[1] Ins. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 8.

[2] Ins. by s. 9, *ibid.*

[3] Subs. by the A. O. 1937 for " G. G. in C."

[4] Subs. by the A. O. 1937 for " Gazette of India ".

[1][Provided that nothing in this sub-section shall apply to persons enrolled in a University Corps.]

Territorial limits of liability to, and duration of, military service.

10. (*1*) No person embodied under section 9 shall be required to perform military service beyond the limits of India save under a general or special order of the [2][Central Government] [3][and no person for the time being serving in an urban corps or unit shall at any time be required to perform military service beyond the limits of the Province in which the corps or unit in which he is serving is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged].

LVI/48

(*2*) Any portion of the Indian Territorial Force which, having been called out or embodied under section 9, is performing military service shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer in charge or after the cancellation of the order or notification under clause (*a*) or (*b*), as the case may be, of section 9.

Application of the Army Act and of the Indian Army Act, 1911.

[4][**11.** (*1*) Every senior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Army Act, and any orders or regulations made thereunder, whereupon the said Act, orders and regulations shall apply to him as if he held the same rank in His Majesty's Army as he holds for the time being in the said Force, subject to the terms of his commission and the orders of His Majesty.

44 & 45 Vict, c. 58.

(*2*) Every junior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the terms of his commission and the orders of the Governor General.

VIII of 1911.

(*3*) Every non-commissioned officer and man of the Indian Territorial Force,—

(*a*) when called out or embodied for military service under section 9,

(*b*) when attached to, or otherwise acting as part of, or with, any regular force, or

(*c*) when embodied for, or otherwise undergoing, military training in the prescribed manner,

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[1] Ins. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 9.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Ins. by Act 9 of 1928, s. 10.

[4] Subs. by s. 11, *ibid.*, for the original section, as amended by the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923 (31 of 1923), s. 2.

LVI/48

VIII of 1911.

shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the orders of the Governor General:

Provided that the said Act, rules and regulations shall, in their application to such non-commissioned officers and men when embodied for or otherwise undergoing military training, be modified to such extent and in such manner as may be prescribed:

Provided further that non-commissioned officers and men of an urban corps or unit, when undergoing military training without having been embodied for that purpose, and non-commissioned officers and men of a University Corps when undergoing training, shall, in respect of such training, be subject only to such disciplinary and other rules as may be prescribed.

VIII of 1911.

(*4*) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section (*3*), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject:

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong ; nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial has already commenced before such expiry.]

Summary trial and punishments.

VIII of 1911.

[1][**11A.** In addition to, or in substitution for any punishment or punishments to which he may be liable under the Indian Army Act, 1911, a junior officer, non-commissioned officer or man of the Indian Territorial Force, not being a member of a University Corps, may be punished, either by a Criminal Court or summarily by order of the prescribed authority, for any offence under that Act, or for the contravention of any rule or regulation under this Act, with fine which may extend to fifty rupees, to be recovered in such manner and by such authority as may be prescribed:

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a Criminal Court:

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[1] Ss. 11A and 11B were ins. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 12.

Provided further that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence made punishable by or under this Act.

Presumption as to certain documents.

11B. Where a junior officer, non-commissioned officer or man of the Indian Territorial Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer, stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.]

Advisory Committees.

LVI/48

[1][**12.** [2][(*1*) In each Province in which any unit or units of the Indian Territorial Force is or have been constituted, the Central Government shall constitute a Provincial Advisory Committee for all such units and a Unit Advisory Committee for each of such units.]

(*2*) The [3][Central Government] shall constitute a Central Advisory Committee to advise [4][it] on matters connected with the Indian Territorial Force generally.

(*3*) The constitution, powers and procedure of the Advisory Committees shall be such as may be prescribed.]

Power to make rules.

13. (*1*) The [3][Central Government] may, after previous publication, make rules[5] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may—

(*a*) prescribe the manner in which, the period for which and the conditions subject to which, persons may be enrolled under section 5 ;

(*b*) prescribe the manner in which persons enrolled may be appointed to corps and units under section 6 or transferred under section 7 [6][or section 7A] ;

(*c*) prescribe the authorities by which and the conditions subject to which persons enrolled may be discharged under section 8 ;

(*d*) prescribe [7][preliminary and periodical military training, compulsory and voluntary, for] any persons or class of persons enrolled and provide for the embodiment of any corps or unit for that purpose ;

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[1] Subs. by the Indian Territorial Force (Amendment) Act, 1928 (9 of 1928), s. 13, for the original section.

[2] Subs. by the A. O. 1937 for the former sub-section.

[3] Subs. by the A. O. 1937 for " G. G. in C."

[4] Subs. by the A. O. 1937 for " him ".

[5] For such rules, *see* Gen. R. & O., Vol IV, p. 584.

[6] Ins. by Act 9 of 1928, s. 14.

[7] Subs. by the Indian Territorial Force (Amendment) Act, 1931 (5 of 1931), s. 2, for " the preliminary and periodical training to be undergone by ".

LL/48

(*e*) prescribe the military or other obligations to which members of a University Corps shall be liable when undergoing military training and provide generally for the maintenance of discipline in such cases ;

(*f*) provide for the medical examination of persons offering themselves for enrolment under section 5 ;

(*g*) provide for and regulate the remuneration, allowances, gratuities or compensation (if any) to be paid to any person or class of persons enrolled or to their dependants ; and

(*h*) provide for any other matter which under this Act is to be or may be prescribed.

(3) All rules made under this Act shall be published in the [1][Official Gazette], and on such publication shall have effect as if enacted in this Act.

Power to make regulations.

14. (1) The [2][Commander-in-Chief, India] may make regulations consistent with this Act and the rules made thereunder providing generally for all details connected with the organization and personnel of the Indian Territorial Force and for the duties, military training, clothing, equipment, allowances and leave of persons enrolled.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may specify the courses of training or instruction to be followed by any person or class of persons enrolled.

Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.

15. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, all officers, non-commissioned officers and men of the Indian Territorial Force who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers, respectively, of His Majesty's Army. V of 1898.

Exemption from local taxation.

16. No person shall be liable to pay any municipal or other tax in respect of any horse, bicycle, motor bicycle, motor car, or other means of conveyance which he is authorised by regulations made under section 14 to maintain in his capacity as a member of the Indian Territorial Force.

Repealed by A. O. 1950

THE AUXILIARY FORCE ACT, 1920.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

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[1] Subs. by the A. O. 1937 for "Gazette of India".

[2] Subs. by the A. O. 1948 for "Commander-in-Chief of His Majesty's Forces in India".

SECTIONS.

3. Constitution of an auxiliary force.
4. Classes who may be enrolled.
5. Enrolment.
6. Liability to undergo military training.
7. Liability to perform military service.
8. Appointment to corps or unit.
9. Preliminary training.
10. [*Repealed.*]
11. Classification and periodical training.
12. Classification.
13. Variations of training.
14. Medical examination.
15. Transfers.
16. Change of residence.
17. Discharge.
18. Calling out and embodiment.
19. Territorial limits of liability to military service on calling out and embodiment.
20. Duration of military service on calling out or embodiment.
20A. Reinstatement in employment.
21. Application of the Army Act.
22. Refusal to appear for military service.
23. Penalties for breach of sections 8, 14 and 16.
24. Other offences.
25. Punishment for offences under section 24.
26. Dismissal.
27. Summary and minor punishments.
27A. Presumption as to certain documents.
28. Advisory Committees.
29. Constitution and disbandment of units.
30. Power to make rules.
31. Power to make regulations.
32. Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.
33. Trial of offences.
34. Exemption from local taxation.
35 & 36. [*Repealed.*]

SCHEDULE I.—TRAINING.
SCHEDULE II.—[*Repealed.*]

Repealed by
A. O. 1950

ACT NO. XLIX OF 1920.[1]

[22nd September, 1920.]

An Act to constitute an auxiliary force for service in India.

WHEREAS it is expedient to constitute an auxiliary force for service in India; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Auxiliary Force Act, 1920.

(*2*) It extends[2] to [3][all the provinces of India], including [4]* * * * the Sonthal Parganas, and applies also to European British subjects [5][in any Indian State or tribal area].

(*3*) It shall come into force on the first day of October, 1920.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"Advisory Committee" means an Advisory Committee constituted under section 28 for the prescribed military area, or part of a prescribed military area, within which a person subject to this Act for the time being resides or is serving, as the case may be;

[6]["competent military authority" means the authority prescribed as competent to perform or exercise all or any of the duties imposed or powers conferred on the competent military authority by this Act;]

"enrolled person" means a person enrolled in the prescribed manner under this Act;

"enrolling officer" means an officer authorised to enroll persons under this Act;

"prescribed" means prescribed by rules made under this Act, and "prescribe" has a corresponding meaning;

"regulation" means a regulation made under section 31; and

"training year" means a period of twelve months beginning on the first day of April and ending on the thirty-first day of March.

Constitution of an auxiliary force.

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force for service in India to be designated the Auxiliary Force, India.

Classes who may be enrolled.

4. Every person who—

(*a*) is a European British subject as defined in the Code of Criminal Procedure, 1898, or

V of 1898.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1920, Pt. V, p. 154; for Report of Select Committee, *see ibid.*, 1920, Pt. V, p. 255; and for Proceedings in Council, *see ibid.*, 1920, Pt. VI, pp. 1042 and 1282.

[2] This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "British Baluchistan and" rep. by the A. O. 1947, para. 4(1).

[5] Subs. by the A. O. 1937 for "within the territories of any Prince or Chief in India".

[6] Subs. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 2, for the original definition.

A.o. 1950

[1]* * * * * *

[1][(*b*)] is a British subject of European descent in the male line,
[1]*

[1]* * * * * *

shall, subject to the provisions of this Act, be eligible for enrolment thereunder.

Enrolment.

5. (*1*) Any male eligible for enrolment under this Act who has attained the age of sixteen years and is not a member of His Majesty's regular naval, military or air forces [2]* * * may apply to be enrolled in the Auxiliary Force, India, and if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner, and shall thereupon become subject to the provisions of this Act.

(*2*) [3][Subject to the prescribed conditions,] an applicant for enrolment may apply to be enrolled for service in any particular branch, or in any particular corps or unit [4]* * *.

Liability to undergo military training.

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6. Every enrolled person shall be liable to undergo military training as provided by or under this Act until discharged from the Auxiliary Force, India, as hereinafter provided.

Liability to perform military service.

7. Every enrolled person liable to undergo military training under section 6 shall, on and from [5]* * * the date on which he attains the age of [6][seventeen] years or, if he has already attained the age of [6][seventeen] years on and from any later date on which he is enrolled, be liable to perform military service under this Act. [7][A person enrolled before the commencement of the Auxiliary Force (Amendment) Ordinance, 1942, shall be liable to perform military service as provided in this section notwithstanding that at the time of his enrolment his liability thereto was to begin only upon the first day of April next following the date on which he attained the age of eighteen years.]

Appointment to corps or unit.

8. (*1*) Every enrolled person shall, without unnecessary delay, be appointed by, or under the orders of, the competent military authority to a corps or unit of the Auxiliary Force, India, and on receipt of an order so appointing him shall report himself for the purpose of joining such corps or unit at such time and place as may be specified in the order.

(*2*) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

Preliminary training.

9. Every enrolled person liable to perform military service under this

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[1] The original cls. (*b*) and (*d*) and the word "or" at the end of cl. (*c*) were rep., and cl. (*c*) was re-lettered as cl. (*b*), by the Auxiliary Force (Amendment) Act 1928 (10 of 1928), s. 2.

[2] The words "or of His Majesty's Royal Indian Marine" rep. by the A. O. 1937.

[3] Ins. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 3.

[4] The words "located in the prescribed military area within which he for the time being resides" rep. by s. 3, *ibid.*

[5] The words "the first day of April next following" rep. by the Auxiliary Force (Amendment) Ordinance, 1942 (27 of 1942), s. 2.

[6] Subs. by s. 2, *ibid.*, for "eighteen".

[7] Ins. by s. 2, *ibid.*

Act who on becoming so liable [1][is included in the Active Class] shall, within the training year in which he becomes so liable, undergo [2][preliminary training of such amount as may be ordered by the competent military authority subject to the limits specified in Schedule I]:

Provided that, if such preliminary training cannot be completed within that training year, it may be completed at the discretion of the [3][Officer Commanding the corps or unit to which such enrolled person belongs] in the training year next following:

A. O. 1950

[4][Provided further that any person may be exempted either wholly or in part by the Officer Commanding his corps or unit from the necessity of undergoing preliminary training required by this section, and shall, on the publication in the orders of the corps or unit of such exemption, be deemed to the extent of such exemption to have completed such preliminary training.]

10. [*Periodical training of persons entitled to rank as officers.*] *Rep. by the Auxiliary Force (Amendment) Act, 1933 (X of 1933), s. 5.*

Classification and periodical training.

11. Every enrolled person liable to perform military service under this Act [5]* * * shall be included [6][by the Officer Commanding the corps or unit to which he is appointed] in one or other of the following classes, namely:—

(*a*) the Active Class ; [7][or]

[8][(*b*) the Reserve Class ;]

and shall undergo [9][periodical training of such amount as may be ordered by the competent military authority subject to the limits specified in Schedule I] for the Class in which he is for the time being included.

Classification.

12. (*1*) Every commissioned officer of the Auxiliary Force, India, shall be included in the Active Class until he relinquishes his commission.

(*2*) Enrolled persons liable to perform military service under this Act not being commissioned officers of the Auxiliary Force, India, [10]* * * shall be classified as follows, namely:—

(*a*) every such person who is required by section 9 to undergo preliminary training [11][or who being so required] has completed or is deemed to have completed the same shall be included in the Active Class [12][until he is transferred to the

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[1] Subs. by Act 10 of 1933, s. 4, for "has not attained the age of thirty-one years".

[2] Subs. by s. 4, *ibid.*, for "the preliminary training specified in Sch. I".

[3] Subs. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 4, for "competent military authority".

[4] Subs. by s. 4, *ibid.*, for the original second proviso.

[5] The words and brackets "(other than a person to whom the provisions of s. 10 apply)" rep. by s. 6, *ibid.*

[6] Subs. by s. 6, *ibid.*, for "as hereinafter provided".

[7] Ins. by s. 6, *ibid.*

[8] Subs. by s. 6, *ibid.*, for the original cls. (*b*) and (*c*).

[9] Subs. by s. 6, *ibid.*, for "the periodical training specified in Sch. I".

[10] The words "or entitled to rank as officers of His Majesty's Forces" rep. by s. 7, *ibid.*

[11] Subs. by s. 7, *ibid.*, for "and".

[12] Subs. by s. 7, *ibid.*, for "until the end of the training year in which he attains the age of thirty-one years".

Reserve Class by order of the Officer Commanding the corps or unit] ;

[1][(b) every such person who is transferred from the Active Class under the provisions of clause (*a*) or who on enrolment is assigned to the Reserve Class by order of the Officer Commanding the corps or unit shall be included in the Reserve Class.]

(*3*) Any enrolled person who ceases [2]* * * to be a commissioned officer of the Auxiliary Force, India, shall thereupon be included in the Class in which he would have been included under this section, if the provisions of [3]* * sub-section (*1*) [4]* * * had not applied to him, and shall undergo periodical training accordingly.

AO 1950

(*4*) Any person who is under this section included in [5][the Reserve Class] may apply to the competent military authority to be included [6][in the Active Class], and shall, [7][if the competent military authority grants the application,] thereupon be deemed to be included in that Class.

*[8] * * * * * *

Variations of training.

13. (*1*) The competent military authority may, by order in writing,—

[9][(*a*) on the recommendation of the Advisory Committee, direct that any enrolled person included in the Active Class shall, for the purposes of periodical training, be included for any stated period in the Reserve Class, or]

(*b*) on his own motion or on the recommendation of the Advisory Committee, reduce the specified amount of training either in individual cases or in the case of any unit or part thereof for any stated period.

(*2*) The competent military authority shall grant [10][in respect of each individual or unit or part thereof] whose training is reduced under clause (*b*) of sub-section (*1*) a certificate setting forth the amount of training to be undergone during the said period.

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[1] Subs. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 7, for the original cls. (*b*) and (*c*).

[2] The words "to be entitled to rank as an officer of His Majesty's Forces or" rep. by s. 7, *ibid.*

[3] The words and figures "section 10 or" rep. by s. 7, *ibid.*

[4] The words "as the case may be" rep. by s. 7, *ibid.*

[5] Subs. by s. 7, *ibid.*, for "either Class of the Reserve".

[6] Subs. by s. 7, *ibid.*, for "for any training year in any other Class for which more periodical training is specified in Sch. I".

[7] Ins. by s. 7, *ibid.*

[8] Sub-section (*5*) rep. by s. 7, *ibid.*

[9] Subs. by s. 8, *ibid.*, for the original clause.

[10] Subs. by s. 8, *ibid.*, for "to each person".

Medical examination.

14. Every enrolled person shall, if and when required by the [1][Officer Commanding the corps or unit to which he belongs], present himself for such medical examination as may be necessary to determine the extent, if any, to which he is fit to undergo military training or to perform military service, before a medical officer appointed or approved in that behalf by the competent military authority, and for the purposes of such medical examination shall comply with the directions of such medical officer.

Transfers.

15. (*1*) Every person appointed to a corps or unit under section 8 shall remain in that corps or unit until transferred to another corps or unit by, or under the orders of, the competent military authority, but no person shall be transferred from the Infantry branch to another branch or from one unit to another unit located in the same prescribed military area except at his own request.

A. O. 1950

(*2*) Any person so transferred from the Infantry branch to another branch may be required to undergo such further preliminary training, not exceeding eight days, as may be ordered by the competent military authority, and thereafter shall undergo the periodical training [2][to which he is liable in] the branch to which he is transferred:

Provided that any periodical training already undergone by such person in the training year in which he is transferred shall be deemed to have been undergone in such other branch.

Explanation.—For the purposes of this section and of Schedule I, a day shall be deemed to consist of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

Change of residence.

16. (*1*) Any enrolled person who leaves his place of residence in India for the time being and thereby leaves the area commanded by one competent military authority for that commanded by another shall, if he does not intend to return to the area which he leaves, notify the competent military authority commanding that area of his change of residence.

(*2*) If such person having intended to return does not return within three months, he shall notify the competent military authority as aforesaid immediately on the expiry of that period.

(*3*) The competent military authority on being notified of a change of residence under sub-section (*1*) or sub-section (*2*) may, subject to the provisions of section 15, transfer such person from the corps or unit in which he is serving to another corps or unit.

Discharge.

17. (*1*) Any enrolled person who has attained the age of forty-five years or has completed four years' service from the date of his enrolment shall, on application made by him in the prescribed manner, be entitled to receive his discharge from the Auxiliary Force, India.

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[1] Subs. by the Auxiliary Force (Amendment) Act 1933 (10 of 1933), s. 9, for "competent military authority".

[2] Subs. by s. 10, *ibid.*, for "specified in Sch. I for".

(2) An enrolled person who is not entitled to his discharge under sub-section (1) [1][shall] be discharged by the competent military authority on a recommendation of the Advisory Committee in this behalf.

[2][(3) Any enrolled person may be discharged by such authority, and subject to such conditions, as may be prescribed.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), no enrolled person, who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service.]

Calling out and embodiment.

18. No person liable to perform military service under this Act shall be required to perform such service except—

(a) when called out with any portion of the Auxiliary Force, India, by an order of the senior military officer present either to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential ; or

(b) when any portion of the Auxiliary Force, India, to which he belongs has been embodied to support or supplement His Majesty's regular forces in the event of an emergency by a notification directing such embodiment issued by the [3][Central Government and published in the Official Gazette] ; or

(c) when attached at his own request to any regular forces ; [4][or

(d) when required by an order of the senior military officer present to perform for short periods not exceeding three days in duration at any one time military service which in the opinion of such officer is essential.]

A.O 1950

Territorial limits of liability to military service on calling out and embodiment

19. No person called out under clause (a), or embodied under clause (b), [5][or required to perform military service under clause (d),] of section 18 shall be required to perform military service beyond the limits of the prescribed military area in which the corps or unit to which he has been appointed or is for the time being attached is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged.

Duration of military service on calling out or embodiment.

20. Any portion of the Auxiliary Force, India, which, having been called out or embodied under section 18, is performing military service, shall be replaced by regular troops or otherwise as soon as circumstances permit and shall not be required to perform such service after such

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[1] Subs. by the Auxiliary Force (Amendment) Act, 1928 (10 of 1928), s. 3, for "may".

[2] Ins. by s. 3, *ibid.*

[3] Subs. by the A. O. 1937 for "G. G. in C. or any L. G. empowered by the G. G. in C. in that behalf and published in the Gazette of India or the local official Gazette, as the case may be".

[4] Added by the Auxiliary Force (Amendment) Ordinance, 1942 (27 of 1942), s. 3.

[5] Ins. by s. 4, *ibid.*

~~replacement has been effected to the satisfaction of the senior military officer present or after the cancellation of the order or notification under clause (*a*) or (*b*), as the case may be, of section 18.~~

Reinstatement in employment.

~~[1][**20A.** (*1*) If, as a consequence of his being required to perform military service under this Act, either when called out under clause (*a*) or embodied under clause (*b*) of section 18, or when attached to any regular forces under clause (*c*) of that section otherwise than for a course of instruction, the employment of any person is terminated, it shall be the duty of the employer by whom such person was employed at the time he was so required to perform military service to reinstate him in his employment on the termination of such military service under conditions not less favourable to him than those which would have applied to him had his employment not been interrupted by his performance of military service.~~

A. O. 1950

~~(*2*) If an employer refuses to reinstate any such person as required by sub-section (*1*) or denies his liability to reinstate such person, or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the tribunal constituted under section 9 of the National Service (European British Subjects) Act, 1940, for the hearing of matters referred to it under the proviso to section 8 of that Act, and that tribunal shall after consideration pass an order either exempting the employer from the provisions of this section or requiring him to re-employ such person on such terms as it thinks suitable, or requiring him to pay to such person a sum in compensation for failure to re-employ him not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer ; and if any employer fails to obey the order of the tribunal, he shall be punishable with a fine which may extend to one thousand rupees, and the Court by which an employer is convicted under this section may order him (if he has not already been so required by the tribunal) to pay the person whom he has failed to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required by the tribunal to be paid or so ordered by the Court to be paid shall be recoverable as if it were a fine imposed by such Court :~~

XVIII of 1940.

~~Provided that in any proceedings under this section it shall be a defence for an employer to prove that the person formerly employed by him did not apply to the employer for reinstatement within a period of two months from the termination of the military service he was required to perform under this Act.~~

~~(*3*) The duty imposed by sub-section (*1*) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who before such person is actually required to perform military service under this Act terminates his employment in~~

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[1] Ins. by the Auxiliary Force (Amendment) Ordinance, 1942 (27 of 1942), s. 5.

circumstances such as to indicate an intention to evade the duty imposed by that sub-section ; and when a person's employment is terminated at any time after he has been required in any of the manners specified in sub-section (*1*) to perform military service under this Act, it shall be presumed until the contrary is proved that the termination of his employment took place as a consequence of his having been so required to perform military service.]

Application of the Army Act.

R A. O. 1950

21. [1][(*1*)] Every commissioned officer of the Auxiliary Force, India, when doing duty as a commissioned officer, and every non-commissioned officer and man of the said Force—

(*a*) when attached to or otherwise acting as part of or with any regular forces, and

(*b*) when called out [2][or required to perform military service] by an order, or embodied by a notification, under section 18,

shall be subject to the provisions of the Army Act and any orders or regulations made thereunder, and the said Act, orders and regulations shall apply to every such person in the circumstances aforesaid as if the same were enacted in this Act, and as if such person held the same rank in His Majesty's Army as he holds for the time being in the said Force, [3][subject, in the case of an officer, to the terms of his commission and the orders of His Majesty, and, in the case of a non-commissioned officer or man, to the orders of the Governor General]. 44 and 45 Vict., c. 58

[4][(*2*) Where an offence punishable under the Army Act has been committed by any person whilst subject to that Act under the provisions of sub-section (*1*), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject : 44 and 45 Vict., c. 58.

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody, on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.]

Refusal to appear for military service.

22. If any person liable to perform military service under this Act fails to comply with an order or notification under section 18 calling him out [5][or requiring him to perform military service] or embodying him for military service, any District Magistrate or Chief Presidency Magistrate may, on the application of the competent military authority or of an officer empowered by such authority in writing in that behalf, cause such person to be arrested and brought before him, and, if the Magistrate is satisfied that such person has been duly required to perform military service, the Magistrate, may, without prejudice to any penalty which such person may have incurred, make over such person in custody to the military authorities.

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[1] The original s. 21 was renumbered as sub-section (*1*) of that section by the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923 (31 of 1923), s. 3.

[2] Ins. by the Auxiliary Force (Amendment) Ordinance, 1942 (27 of 1942), s. 6.

[3] Ins. by the Auxiliary Force (Amendment) Act, 1928 (10 of 1928), s. 4.

[4] Ins. by Act 31 of 1923, s. 3.

[5] Ins. by Ord. 27 of 1942, s. 7.

Penalties for breach of sections 8, 14 and 16.

A. O. 1950

23. An enrolled person who refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects—

(*a*) to comply with any order under section 8 ; or

(*b*) to attend for medical examination, or to comply with the directions of the medical officer, as required by section 14 ; or

(*c*) to notify any change of residence as required by section 16 ;

shall be punishable with fine which may extend to fifty rupees.

Other offences.

24. An enrolled person commits an offence if he, in circumstances when he is not subject to military law, does any of the following acts, namely:—

(*1*) when on parade or undergoing military training or wearing His Majesty's uniform—

(*a*) strikes, or uses or offers violence to or uses threatening or insubordinate language to, or behaves with contempt to, his superior officer ; or

(*b*) disobeys any standing order of, or lawful command given by, his superior officer ; or

(*c*) neglects to obey a general or garrison order made specially applicable to the Auxiliary Force, India, by the competent military authority ; or

(*d*) is in a state of intoxication ; or

(*e*) being a non-commissioned officer strikes or ill-treats any person subject to military law or to this Act, or to the Indian Territorial Force Act, 1920, who is his subordinate in rank or position ;

XLVIII of 1920.

(*2*) without sufficient cause fails to appear at the place of parade at the time fixed or to attend at any place in his capacity as a member of the Auxiliary Force, India, when duly required so to attend, or when on parade without sufficient cause quits the ranks ;

(*3*) without sufficient cause fails to perform any part of the training which by or under this Act he is required to perform ;

(*4*) strikes, or uses or offers violence to, any person whether subject to military law or not in whose military custody he is placed, and whether such person is or is not his superior officer ;

(*5*) resists an escort whose duty it is to arrest him or detain him in military custody ;

(*6*) being under arrest or detention or otherwise in lawful military custody escapes or attempts to escape ;

(*7*) when in charge of any property belonging to [1][the Crown] or to a corps or unit of the Auxiliary Force, India, makes away with, or is concerned in making away with, any such property ;

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[1] Subs. by the A. O. 1937 for "Govt."

(*8*) wilfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (*7*) ;

(*9*) wilfully ill-treats a horse or other animal used in the public service ;

(*10*) knowingly furnishes a false return or report of the number or state of men under his command or charge, or of any money, arms or ammunition, clothing, equipment, stores or other property in his charge ;

A. O. 1950

(*11*) through design or culpable neglect omits to make or send any return of any matter mentioned in clause (*10*) which it is his duty to make or send ;

(*12*) when it is his official duty to make a declaration respecting any matter, makes a declaration respecting such matter which he either knows or believes to be false or does not believe to be true ;

(*13*) knowingly makes against any person subject to military law or to this Act or to the Indian Territorial Force Act, 1920, an accusation which he either knows or believes to be false or does not believe to be true ;

XLVIII of 1920.

(*14*) falsely personates any other person at any parade or on any occasion when such other person is required by or under this Act to do any act or attend at any place, or abets any such act of personation.

Punishment for offences under section 24.

25. (*1*) Any person committing any of the offences specified in sub-clauses (*b*), (*c*) and (*d*) of clause (*1*) or in clauses (*2*), (*3*) (*8*), (*11*) and (*14*) of section 24 shall be punishable with fine which may extend to two hundred rupees.

(*2*) Any person committing any other offence specified in section 24 shall be punishable with imprisonment which may extend to two months, or with fine which may extend to two hundred rupees, or with both.

Dismissal.

26. The competent military authority may in his discretion dismiss any enrolled person from the Auxiliary Force, India.

Summary and minor punishments.

27. The [1][Central Government] may prescribe summary and minor punishments for offences under section 24 or for contravention of any rule or regulation made under this Act to which enrolled persons shall be liable without the intervention of a Criminal Court, and the officer or officers by whom and the circumstances in which and the extent to which such summary and minor punishments may be inflicted, and the manner in which any such punishment may be enforced:

Provided that no punishment involving any kind of imprisonment shall be imposed as a summary or minor punishment:

Provided further that no summary punishment shall be inflicted in any case in which the accused claims to be tried by a Criminal Court.

Presumption as to certain documents.

[2][**27A.** Where any non-commissioned officer or man of the Auxiliary Force is required, by or in pursuance of any rule, regulation or order

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] Ins. by the Auxiliary Force (Amendment) Act, 1928 (10 of 1928), s. 5.

made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.]

A. O. 1950

Advisory Committees.

28. (*1*) The [1][Central Government] shall constitute for each prescribed military area one or more Advisory Committees each consisting of three or more members, of whom one shall be the competent military authority [2]* * * and the others shall be persons eligible for enrolment in the Auxiliary Force, India, within the meaning of section 4, who shall be appointed annually by, or under the orders of, the [1][Central Government].

(*2*) Any Advisory Committee constituted for a prescribed military area or a part thereof, as the case may be, which includes a Presidency-town or any other place to which the [3][Central Government] may, by order in writing, declare this sub-section to apply, shall consist of not less than five members, of whom not more than two shall be persons in the [4][service of the Crown].

(*3*) The [3][Central Government] shall prescribe the duties, powers and procedure of Advisory Committees and, in particular, the matters in respect of which the competent military authority shall be bound to give effect to a recommendation of an Advisory Committee unless the [1][Central Government] otherwise directs.

Constitution and disbandment of units.

29. The [3][Central Government] may constitute any corps or unit and may disband any corps or unit constituted under this Act.

Power to make rules.

30. (*1*) The [3][Central Government] may make rules[5] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers such rules may—

(*a*) provide for the appointment of enrolling officers;

[6][(*aa*) prescribe the authority which shall be the competent military authority for any purpose under this Act;]

(*b*) prescribe military areas for the purposes of this Act;

(*c*) prescribe the manner in which and the conditions subject to which European British subjects [7]* * may offer themselves for enrolment under this Act [1][and the conditions governing applications to be enrolled in a particular branch, corps or unit] ;

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[1] Subs. by the A. O. 1937 for "L. G."

[2] The words "or a military officer appointed by him in this behalf" rep. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 11.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "service of Govt."

[5] For the Auxiliary Force Rules, 1920, *see* Gen. R. & O., Vol. IV, p. 607.

[6] Ins. by Act 10 of 1933, s. 12.

[7] The words "and other persons who are not British subjects" were rep. by the Repealing and Amending Act, 1930 (8 of 1930), s. 3 and Sch. II.

(*d*) define the manner in which and the conditions under which persons or any class of persons liable to military service under this Act may be excused from [2][such service] ;

(*e*) prescribe the military training to be undergone by persons liable to military training under section 6 but not to military service under section 7 ;

A. 1. 1950

(*f*) prescribe the [1][conditions governing the grant of, and the] rates of pay for, and provide for the grant of allowances to, [3][entrolled persons] ;

(*g*) prescribe for any military area which is a railway area or for any area beyond the limits of [4][the Provinces] the [5][authority] which shall be deemed [6]* to be [7]* * * the District Magistrate for all or any of the purposes of this Act ; and

(*h*) provide for any other matter which under this Act is to be or may be prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(5) All rules made under this section shall be published in the [8][Official Gazette], and on such publication shall have effect as if enacted in this Act.

Power to make regulations.

31. The Commander-in-Chief of His Majesty's Forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for details connected with the organisation and personnel of the Auxiliary Force, India, and for the duties, equipment, military training, allowances and leave of enrolled persons.

Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.

32. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, all officers, non-commissioned officers and men liable to perform military service under this Act who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers, respectively, of His Majesty's Army.

V of 1898.

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[1] Ins. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 12.

[2] Subs. by the Auxiliary Force (Amendment) Ordinance, 1942 (27 of 1942), s. 8, for " being called out or embodied ".

[3] Subs. by the Auxiliary Force (Amendment) Act, 1931 (6 of 1931), s. 2, for " persons liable to perform military service under this Act ".

[4] Subs. by the A. O. 1948 for " British India ".

[5] Subs. by the A. O. 1937 for " authorities ".

[6] The word " respectively " rep by the A. O. 1937.

[7] The words " the L. G. and " rep. by the A O. 1937

[8] Subs. by the A. O. 1937 for " Gazette of India ".

Trial of offences.

33. Save as otherwise provided by section 27, no offence under this Act shall be tried save by a Court not inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Exemption from local taxation.

34. No enrolled person shall be liable to pay any municipal or other tax in respect of a horse, bicycle, motor-bicycle, motor car or other means of conveyance which he is authorised by a general or special order of the competent military authority to maintain in his capacity as a member of the Auxiliary Force, India.

A. O. 1950

35. [*Amendment of section 1, Act XI of 1878.*] *Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.*

36. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

SCHEDULE I.

(*See sections 9, 11, 12 and 15.*)

TRAINING.

1. Preliminary—	
(*a*) for infantry	32 days, and the annual musketry course as laid down in regulations.
(*b*) for other branches.	40 days, and the annual musketry or gun course as laid down in regulations.
2. Periodical—	
(1) Active class—	
(*a*) for infantry	16 days in each training year, and the annual musketry course as laid down in regulations.
(*b*) for other branches.	20 days in each training year, and the annual musketry or gun course as laid down in regulations.
[1]* * *	
[2][(2)] [3][Reserve Class]—	
(*a*) for infantry	The annual musketry course as laid down [4]* * in regulations.
(*b*) for other branches.	

NOTE.—(*Cf.* section 15.) A day consists of four hours of actual military drill or instruction and may be made up of fractions of a day not more than four in number.

SCHEDULE II.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

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[1] The original sub-item (2) rep. by the Auxiliary Force (Amendment) Act, 1933 (10 of 1933), s. 13.

[2] The original sub-item (3) was re-numbered as sub-item (2) by s. 13, *ibid.*

[3] Subs. by s. 13, *ibid.*, for "Second (B) Class Reserve".

[4] The words "for this Class" rep. by s. 13, *ibid.*

Repealed by A. O/50

THE LEGISLATIVE ASSEMBLY (DEPUTY-PRESIDENT'S SALARY) ACT, 1921.

ACT NO. II OF 1921.[1]

[27th March, 1921.]

An Act to determine the salary of the Deputy-President of the Legislative Assembly.

WHEREAS it is provided by sub-section (5) of section 63-C of the Government of India Act that the Deputy-President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature; It is hereby enacted as follows:—

5 & 6 Geo. 5, c. 61; 6 & 7 Geo. 5, c. 37; and 9 & 10 Geo. 5, c. 101.

Short title.

1. This Act may be called the Legislative Assembly (Deputy-President's Salary) Act, 1921.

Salary of Deputy-President.

2. There shall be paid to the Deputy-President of the Legislative Assembly, in respect of any period during which he is engaged on work connected with the business of the said Assembly, a salary calculated at the rate of one thousand rupees *per mensem*.

Decision in case of doubt.

3. If any question arises whether during any period the Deputy-President was engaged on work connected with the business of the Legislative Assembly, the question shall be referred for decision to the President of the said Assembly, and his decision shall be final.

Act to cease on establishment of Federation.

[2][**4.** On the establishment of the Federation of India this Act shall cease to have effect.]

THE HINDU TRANSFERS AND BEQUESTS (CITY OF MADRAS) ACT, 1921.

ACT NO. VIII OF 1921.[3]

[27th March, 1921.]

see Madras Code Vol. I.

An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras.

WHEREAS it is expedient to declare the rights or Hindus to make transfers and bequests in favour of unborn persons in the City of Madras; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Hindu Transfers and Bequests (City of Madras) Act, 1921.

Application and extent.

2. (*1*) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu Law who are domiciled within the limits of the Ordinary Original Civil Jurisdiction of the High Court of Madras.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 7.

[2] Ins. by the A. O. 1937.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 94

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act, the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to the 14th February, 1914:

Provided that nothing contained in this section shall affect *bonâ fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of this Act.

Explanation.—Hindus governed by the Marumakkattayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu Law for the purposes of this Act.

Disposition for the benefit of person not in existence.

[1][3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

4. The limitations and provisions referred to in section 3 shall be the following, namely:—

(a) in respect of disposition by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and IV of 1882.

(b) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] XXXIX of 1925.

THE ENEMY MISSIONS ACT, 1921.

ACT NO. IX OF 1921.[2]

[27th March, 1921.]

An Act to validate certain indentures transferring properties formerly held by certain Enemy Missions in Trustees, and for the incorporation of such Trustees and for other purposes.

WHEREAS the Governor General in Council, in exercise of the powers conferred by sections 7 and 12 of the [3] Enemy Trading Act, 1916, vested X of 1916. the properties both moveable and immoveable in [4][the Provinces] Part A States & Part B States of the Leipzig Evangelical Lutheran Mission, Madras and Burma, the Schleswig Holstein Evangelical Lutheran Mission, Madras, the Hermannsburg Evangelical Lutheran Mission, Madras, the Basel Mission, Madras, Bombay and Coorg, the Gossner Evangelical Lutheran Mission, United Provinces and Bihar and Orissa, the German Evangelical Lutheran Mission, Bihar and Orissa and Assam, and a religious association in Assam styled the Sisters of the Divine Saviour, in certain Custodians of Enemy Property, and by order directed the said Custodians to transfer the properties thereby respectively vested in them to Boards of Trustees on certain trusts which the said Custodians accordingly purported to do by the several indentures, particulars of which are given in the Schedule hereto annexed ; and

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[1] Ss. 3 and 4 were subs. for the original ss. 3, 4 and 5 by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 13.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 60.

[3] Rep. by the Repealing Act, 1927 (12 of 1927).

[4] Subs. by the A. O. 1948 for "British India".

WHEREAS the properties comprised in the several indentures have by diverse mesne appointments become vested in the present Trustees of those indentures ; and

WHEREAS doubts have risen and may arise as to the validity of certain matters in connection with the above-mentioned transfers ; and

WHEREAS it is expedient to terminate such doubts and to constitute the several bodies of Trustees bodies corporate in order that the intention of the said transfers may be fully carried out ;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Enemy Missions Act, 1921.

Incorporation of Trustees.

2. (*1*) Each body of persons whose names are set out in the fourth column of the Schedule, and the predecessors in office of those persons shall be deemed to have been validly appointed the trustees of the indenture or indentures, as the case may be, described in the Schedule opposite the names of the person comprising that body, and each such body of persons, together with the successors in office of those persons, is hereby constituted a body corporate with perpetual succession and a common seal, and may sue and be sued by the corporate name given to it in the fifth column of the Schedule.

(*2*) For the purposes of the appointment of the successors of the persons named in the fourth column of the Schedule in their office as such trustees, the provisions of the Indian Trusts Act, 1882, shall be deemed to apply, and appointments of any trustees which are required to be made by the National Missionary Council of India shall be sufficiently made if made by writing under the hand of the Chairman of that body.

II of 1882.

Validation of indentures, etc.

3. Notwithstanding anything contained in any enactment or rule of law to the contrary, the indentures described in the Schedule are hereby declared to have been validly made and the properties respectively transferred, or purporting to be transferred, thereby shall be deemed to have been duly transferred by the said indentures, and all acts or things heretofore done under the said indentures are hereby validated and confirmed, and every obligation imposed or purporting to be imposed on any person mentioned in any of the said indentures shall be binding in law on the person named therein whether such person is or is not a party to such indenture, and the Trustees referred to in sub-section (*1*) of section 2 shall have power, in conformity with the indentures of which they are respectively trustees, to transfer or otherwise deal with the properties comprised in those indentures.

THE SCHEDULE.

(*See section 2.*)

Particulars of Indenture and present Trustees thereof.

1 Date.	2 Parties.	3 Short effect.	4 Name and description of the Trustees of each Indenture at the date of the passing of this Act.	5 Corporate name of the Trustees for the time being of each Indenture from the date of the passing of the Act
26th January 1920. Registered at Madras on 28th June 1920, being Serial No. 2036 of 1920 in Registration Book I of the office of the Registrar of Madras, Chingleput.	Daniel Chamier, Custodian of Enemy Property, Madras and Coorg (therein referred to as the Custodian) of the first part and Henry Reginald Pate, Arthur Davis, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss Avergal and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Madras Presidency and Coorg, formerly belonging to or held in Trust for the Basel Mission, the Leipzig Evangelical Lutheran Mission, the Schleswig Holstein Evangelical Lutheran Mission and the Hermannsburg Evangelical Lutheran Mission.	John Anderson Thorne, I.C.S., Secretary to the Board of Revenue (Land Revenue), Madras. Paul Appaswami, Judge of the Court of Small Causes, Madras. Muthiah David Devadoss, Barrister-at-Law, Madras. Duncan Gordon MacNaughton Leith, Secretary, German Missions' Committee of the National Missionary Council. Anthony Watson Brough of the London Mission, Erode, Madras.	The Mission Trust of Southern India.
31st March, 1920. Registered at Madras on 5th August, 1920, being Serial No. 2197 of 1920 in Registration Book I of the office of the Registrar of Madras, Chingleput.	Harold Charles Barnes Mitchell, Custodian of Enemy Property, Bombay (therein referred to as the Custodian) of the first part and John Anderson Thorne, Arthur Davies, the Reverend William Meston, the Hon'ble Mr. Muthiah David Devadoss and the Reverend Duncan Gordon MacNaughton Leith (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Bombay Presidency, formerly belonging to or held in Trust for the Basel Mission.		

13th October 1919. Registered at Ghazipur on 23rd January, 1920, being Serial No. 2 of 1920 in Registration Book I of the office of the Registrar of Ghazipur.	Shaikh Makbul Hosain, Custodian of Enemy Property, United Provinces (therein referred to as the Custodian) of the first part and the Hon'ble Mr. B. Foley, W. B. Heycock, the Reverend J. Z. Hodge, Professor S. C. Mukerji, the Reverend G. J. Dann (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the United Provinces, formerly belonging to or held in Trust for the Gossner Evangelical Lutheran Mission.	Frank Frederick Lyall, Commissioner of Chota Nagpur. John Tarlton Whitty, Deputy Commissioner of Ranchi. Herbert Anderson, Secretary, National Missionary Council. George James Dann, Missionary, Patna. Satish Chandra Mukerji, Professor, Serampore College.	The Mission Trust of Northern India.
13th October 1919. Registered at Ranchi on 4th December 1919, being Serial No. 4390 of 1919 in Registration Book I of the office of the District Sub-Registrar, Ranchi.	Patrick William Murphy, Custodian of Enemy Property, Bihar and Orissa (therein referred to as the Custodian) of the one part and Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S. C. Mukerji and the Reverend George James Dann (therein referred to as the Trustees) of the other part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in the Province of Bihar and Orissa, formerly belonging to or held in Trust for the German Evangelical Lutheran Mission.		
1st October 1919. Registered at Dibrugarh on 29th January 1920, being Serial No. 42 of 1920 in Registration Book I of the office of the Sub-Registrar, Dibrugarh.	Stephen Nairne Mackenzie, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Hon'ble Mr. Blanchard Foley, William Bissil Heycock, the Reverend John Zimmerman Hodge, Professor S. C. Mukerji and the Reverend G. J. Dann (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trusts therein mentioned of all property moveable or immoveable in Assam, formerly belonging to or held in Trust for the German Evangelical Lutheran Mission.		
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[1] The entries relating to the Burma Mission Trust were rep. by the A. O. 1937.

THE SCHEDULE—*concld.*

Particulars of Indenture and present Trustees thereof.

1	2	3	4	5
Date.	Parties.	Short effect.	Name and description of the Trustees of each Indenture at the date of the passing of this Act.	Corporate name of the Trustees for the time being of each Indenture from the date of the passing of this Act.
30th April 1920. Registered at Dibrugarh on 23rd June 1920, being Serial No. 453 of 1920 in Registration Book I of the office of the Sub-Registrar, Dibrugarh.	Gerald Courtenay Kerwood, Custodian of Enemy Property, Assam (therein referred to as the Custodian) of the first part and the Very Reverend Paul Lefebvre, John McSwiney, Robert Eustace Witham (therein referred to as the Trustees) of the second part.	Being a transfer by the Custodian to the Trustees on the Trust therein mentioned of all property moveable or immoveable in Assam, formerly belonging to or held in Trust for the religious association or covenanted order called the Sisters of the Divine Saviour.	The Very Reverend Paul Lefebvre, Vice-Administrator of the Prefecture Apostolic of Assam. John McSwiney, Director of Land Records and Agriculture, Assam. Robert Eustace Witham, Manager [1][Budla Beta] Tea Estate, Lakhimpur, Assam.	The Assam Roman Catholic Mission Trust.

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[1] Subs. by the Repealing and Amending Act, 1923 (11 of 1923), s. 2 and Sch. I, for "Budla".

THE CATTLE-TRESPASS (AMENDMENT) ACT, 1921.

ACT NO. XVII OF 1921.[1]

[30th September, 1921.]

An Act further to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient further to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows:— I of 1871.

Short title and commencement.

1. (*1*) This Act may be called the Cattle-trespass (Amendment) Act, 1921.

(*2*) This section shall come into force at once.

(*3*) The rest of the Act shall come into force [2] in any ~~Province~~ Part A State or Part C State or part thereof on such date as the [3][~~Provincial~~ Government] may, by notification in the [4][Official Gazette], appoint.

Substitution of new section for section 12, Act I of 1871.

2. For section 12 of the Cattle-trespass Act, 1871, the following section shall be substituted, namely:— I of 1871.

[See the Unrepealed Central Acts, Vol. I.]

3. *[Repeal.] Rep. by the Repealing Act, 1927 (XII of 1927) s. 2 and Sch.*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 118.

[2] This Act has been declared to be in force in—

(1) Madras Presidency, from 1st April, 1938, *see* Fort St. George Gazette, 1928, Pt. I, p. 488;

(2) Bombay Presidency (excluding the town of Bombay), from 1st May, 1924, *see* Bombay Govt. Gazette, 1924, Pt. I, p. 654;

(3) Bengal Presidency (except the town of Calcutta), from 1st April, 1928, *see* Calcutta Gazette, 1928, Pt. I, p. 455;

(4) Punjab, from 28th April, 1922, *see* Punjab Gazette, 1922, Pt. I, p. 401;

(5) B. & O., from 1st October, 1923, *see* B. & O. Gazette, 1923, Pt. II, p. 1264; Santhal Parganas under the Santhal Parganas Settlement Regulation (3 of 1872), s. 3 (*3*) (*a*), *see ibid.*, 1922, Pt. II, p. 271;

(6) C. P., from 1st May, 1922, *see* C. P. Gazette, 1922, Pt. III, p. 351;

(7) Delhi from 10th December, 1925, *see* Gazette of India, 1925, Pt. II-A, p. 397;

(8) Coorg, from 22nd August, 1935, *see* Coorg Gazette, 1938, Pt. I, p. 39; and

(9) Andaman and Nicobar Islands, *see* the Chief Commissioner's Notification No. 2 of 1938, dated 20th January, 1938.

[3] Subs. by the A. O. 1937 for "L. G."

[4] Subs. by the A. O. 1937 for "local official Gazette".

THE MAINTENANCE ORDERS ENFORCEMENT ACT, 1921.

ACT No. XVIII OF 1921.[1]

[5th October, 1921.]

An Act to facilitate the enforcement in [2]~~[the Provinces of~~ India] of Maintenance Orders made in ~~other parts of His Majesty's Dominions~~ and Protectorates, [3]~~[Acceding states and other Indian states]~~ and *vice versa*.

reciprocating territories

XLVII/52

WHEREAS it is expedient to facilitate the enforcement in [2][the Provinces of India] of Maintenance Orders made in ~~other~~ parts of His ~~Majesty's~~ ~~Dominions~~ and Protectorates, ~~[3][Acceding~~ States and other Indian ~~States]~~ and *vice versâ* ; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Maintenance Orders Enforcement Act, 1921. Short title and extent.

(*2*) It extends to [4]~~[all~~ whole the ~~Provinces~~ of India], ~~including the Sonthal Parganas~~ [5] Except the States of Jammu & Kashmir

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

" Court of summary jurisdiction " means the Court of a Chief Presidency Magistrate or of a District Magistrate ;

" dependants " means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the ~~part of His Majesty's Dominions~~ reciprocating territory in which the maintenance order is made ;

XLVII/52

'India' means the territory of India excluding the State of Jammu & Kashmir

" maintenance order " means a decree or order, other than an order of affiliation, made by a Court in the exercise of civil or criminal jurisdiction for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made ;

" prescribed " means prescribed by rules made under this Act ;

" proper authority " means the authority appointed by, or under the law of, a reciprocating territory to receive and transmit documents to which this Act applies ; and

" reciprocating territory " means any ~~part of His Majesty's Dominions outside [6][India]~~ country or territory outside India in respect of which this Act for the time being applies by virtue of a declaration under section 3

XLVII/52

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 5 ; and for Report of Select Committee, *see ibid.*, 1921, Pt. V, p. 127.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[2] Subs. by the A. O. 1948 for " British India ".

[3] Ins. by the A. O. 1948.

[4] Subs. by the A. O. 1948 for " the whole of British India ".

[5] The words " and British Baluchistan " rep. by the A. O. 1948.

[6] Subs. by the A. O. 1948 for " British India ".

Declaration of reciprocal arrangements:

Reciprocal arrangements.

3. ~~(1)~~ If the [1][Central Government] is satisfied that legal provisions ~~have been made by the Legislature of any part of His Majesty's Dominions~~ exists in any country or territory outside India ~~for~~ the enforcement ~~within that part of~~ of maintenance orders made by Courts in [2][~~the Provinces~~ India] the [1][Central Government] may, by notification in the [3][Official Gazette] declare[4] ~~that~~ this Act applies in respect of that country or territory ~~part of His Majesty's Dominions~~ and thereupon it shall apply accordingly.

~~(2) The [1][Central Government] may, by like notification, declare[5] that this Act applies in respect of any British protectorate, or in respect of any [6][Acceding State or other Indian State], and where such a declaration has been made, this Act shall apply as if such protectorate or State were a reciprocating territory.~~

x LVII/52

Registration in the Provinces of maintenance orders made in other parts of His Majesty's Dominions.

4. *(1)* Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in any reciprocating territory, and a certified copy of the order has been transmitted by the proper authority of that territory to the [7][Central Government], the [1][Central Government] shall send a copy of the order to the prescribed officer of a Court in [2][~~the Provinces~~ India] for registration, and, on receipt thereof, the order shall be registered in the prescribed manner.

(2) The Court in which an order is to be so registered as aforesaid shall, if the Court by which the order was made was, in the opinion of the [1][Central Government], a Court of superior jurisdiction, be a High Court, and, if the Court was not, in [8][its] opinion, a Court of superior jurisdiction, be a Court of summary jurisdiction.

Transmission of maintenance orders made in the Provinces.

5. Where a Court in [2][~~the Provinces~~ India] has, whether before or after the commencement of this Act, made a maintenance order against any person, and it is proved to that Court that the person against whom the order was made is resident in a reciprocating territory, the Court shall send to the [1][Central Government], for transmission to the proper authority of that territory, a certified copy of the order.

Power of summary Courts to make provisional maintenance orders against persons resident in His Majesty's Dominions outside the Provinces.

6. ~~*(1)*~~ Where application is made to a Court of summary jurisdiction in [2][~~the Provinces~~ India] for a maintenance order against any person, and it is proved that that person is resident in a reciprocating territory, the Court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if that person had wilfully neglected to attend the Court ; but in such case the order shall be provisional only and shall have no effect unless and until confirmed by a competent Court in such territory.

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] Subs. by the A. O. 1948 for " British India ".

[3] Subs. by the A. O. 1937 for " Gazette of India ".

[4] For such declarations in respect of parts of His Majesty's dominions outside British India, *see* Gen. R. & O., Vol. V, pp. 2-3 ; and *ibid.*, Supplementary, Vol. VI, p. 436.

[5] For notifications making such declarations in respect of certain protectorates and States, *see* Gen. R. & O., Vol. V, p. 4 ; *ibid.*, Supplementary, Vol. VI, pp. 437-438 ; and *ibid.*, 1943-45 Vol., p. 320

[6] Subs. by the A. O. 1948 for " State in India ".

[7] Subs. by the A. O. 1937 for " Governor General "

[8] Subs. by the A. O. 1937 for " his ".

(*2*) The evidence of every witness who is examined on any such application shall be reduced to writing, and such deposition shall be read over to, and signed by, him.

(*3*) Where such an order is made, the Court shall send to the [1][Central Government], for transmission to the proper authority of the reciprocating territory in which the person against whom the order is made is alleged to reside, the depositions so taken and a certified copy of the order together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing and such information as the Court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(*4*) Where any such provisional order has come before a Court in a reciprocating territory for confirmation, and the order has by that Court been remitted to the Court of summary jurisdiction which made the order for the purpose of taking further evidence, that Court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

(*5*) If it appears to the Court hearing such evidence that the order ought not to have been made, the Court may rescind the order, but in any other case the depositions shall be sent to the [1][Central Government] and dealt with in like manner as the original depositions.

(*6*) The confirmation of an order made under this section shall not affect any power of a Court of summary jurisdiction to vary or rescind that order:

Provided that, on the making of a varying or rescinding order, the Court shall send a certified copy thereof to the [1][Central Government] for transmission to the proper authority of the reciprocating territory in which the original order was confirmed, or to which it was sent for confirmation and that, in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

Power of Court of summary jurisdiction to confirm maintenance order made out of the Provinces.

7. (*1*) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in [2][the Provinces], and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the [3][Central Government], and it appears to the [1][Central Government] that the person against whom the order has been made is resident in [2][~~the Provinces~~ India], the [1][Central Government] may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "Governor General".

issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue such a summons and cause it to be served upon such person.

(*2*) A summons issued under sub-section (*1*) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(*3*) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(*4*) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the Court that the order ought not to be confirmed, the Court may, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in [1][~~the Provinces~~] India confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(*5*) If the person to whom the summons was issued appears at the hearing and satisfies the Court that for the purpose of any defence it is necessary to remit the case to the Court which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the [2][Central Government] for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(*6*) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming Court, and where on an application for rescission or variation the Court is satisfied that it is necessary to remit the case to the Court which made the provisional order for the purpose of taking any further evidence, the Court may for that purpose send a certified copy of the record to the [2][Central Government] for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

Enforcement of maintenance orders.

8. (*1*) Subject to the provisions of this Act, where an order has been registered under this Act in a High Court, the order shall, from the date of such registration, be of the same force and effect, and all proceedings

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."

may be taken thereon as if it had been an order originally obtained in the High Court in the exercise of its civil jurisdiction, or in such Civil Court subordinate to that High Court as may be named by the High Court in this behalf, and that Court shall have power to enforce the order accordingly.

(*2*) A Court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such Court, shall have such powers and perform such duties, for the purpose of enforcing the order, as may be prescribed.

Payment of charges for transmission of sums awarded as maintenance and other costs and charges.

9. A Court in registering or confirming an order for maintenance in accordance with the provisions of this Act shall direct that the charges for the transmission to the Court, from which the order has been received or in which the provisional order has been made, as the case may be, of the sum awarded as maintenance shall be borne by the person against whom the order has been so made or confirmed, and shall be recovered from him in addition to the sum awarded as maintenance and in addition to, and in the same manner as, such other costs and charges as may be awarded or levied by the Court.

Proof of documents signed by officers of Court.

10. For the purposes of this Act, any document purporting to be signed by a judge or officer of a Court outside [1][~~the Provinces~~ India] shall, until the contrary is proved, be deemed to have been so signed without proof of the signature of judicial or official character of the person appearing to have signed it, and the officer of a Court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the Court to sign the document.

Depositions to be evidence.

11. Depositions taken in a Court in any reciprocating territory may, for the purposes of this Act, be received in evidence in proceedings before Courts of summary jurisdiction under this Act.

Rule-making power.

12. The [2][Central Government] may make rules[3] for the purpose of carrying into effect the purposes of this Act, and in particular may make rules for the levy of the costs or charges for anything done under this Act and for all matters which are directed or permitted to be prescribed.

THE INDIAN EMIGRATION ACT, 1922.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

---

[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] For such rules, *see* Gen. R. & O., Vol. V, pp. 4 to 7.

CHAPTER II.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

SECTIONS.

3. Appointment of Protectors of Emigrants.
4. General duties of Protector.
5. Power to appoint persons to exercise functions of a Protector.
6. Appointment of Medical Inspectors.
7. Agents in foreign countries.
8. Advisory Committees.

CHAPTER III.

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

9. Ports from which emigration of unskilled workers is lawful.
10. Countries to which emigration of unskilled workers is lawful.
11. Power to suspend emigration of unskilled workers.
12. Revocation of prohibition.
13. Powers of Central Government to prohibit emigration to specified country.
14. Saving.

CHAPTER IV.

EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

15. Ports from which emigration of skilled workers is lawful.
16. Emigration of skilled workers.
17. Applications how to be disposed of.
18. Appearance of engaged persons before, and registration of names by, Protector of Emigrants.
19. Provisions as to security.
20. Delegation to Protector of Emigrants of authority to receive or dispose of applications.
21. Power to prohibit emigration of skilled workers.
22. Saving.

CHAPTER V.

RULES.

23. Power of Central Government to make rules.
24. Power for the Central Government to make rules.

CHAPTER VI.

OFFENCES.

SECTIONS.
25. Unlawful emigration or inducement to emigrate.
26. Fraudulently inducing to emigrate.
27. False representation of Government authority.
28. Sanction to prosecutions.
29. Power for Customs-officer to search and detain for purposes of Act.

CHAPTER VII.

SUPPLEMENTAL.

30. Prohibition of departure by land under an agreement to work for hire in some country beyond the sea.
30A. Power to prohibit departure by sea from the Provinces for the purpose of unskilled work.

CHAPTER VIII.

SAVINGS AND REPEAL.

31. Application of Act.
32. Saving.
33. [*Repealed.*]

ACT NO VII OF 1922.[1]

[*5th March, 1922.*]

An Act to amend the law relating to emigration.

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Emigration Act, 1922. Short title and extent.

(*2*) It extends to [2][~~all~~ the ~~Provinces~~ States of India] except Part B States

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "dependent" means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;

(*b*) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependant of an emigrant, but does not include—

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 109; and for Report of Select Committee, *see ibid.*, 1922, Pt. V, p. 17.

[2] Subs. by the A. O. 1948 for "the whole of British India".

(*i*) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or

(*ii*) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person ;

(*c*) " emigrate " and " emigration " mean the departure by sea out of [1][the Provinces] of—

(*i*) any person who departs under an agreement to work for hire in any country beyond the limits of India, and

(*ii*) any person who is assisted to depart, otherwise than by a relative, if he departs, for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of India ;

[2][(*cc*) " emigrant ship " means any ship specially chartered for the conveyance of emigrants, or conveying emigrants exceeding a number to be prescribed:

Provided that the [3][Central Government] may, by notification in the [4][Official Gazette], declare that ships conveying emigrants to any specified port shall not be deemed to be emigrant ships ;]

(*d*) " prescribe " means to prescribe by rules made under this Act ;

(*e*) " work ", with its grammatical variations, means skilled or unskilled work ;

(*f*) " skilled work " means—

(*i*) working as an artisan ; or

(*ii*) working as a clerk or shop assistant ; or

(*iii*) working for the purpose of any exhibition or entertainment ; or

(*iv*) service in any restaurant, tea-house, or other place of public resort ; or

(*v*) domestic service ; or

(*vi*) any other occupation which the [3][Central Government] may, by notification in the [4][Official Gazette], declare to be skilled work ;

(*g*) " unskilled work " includes engaging in agriculture.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings, as to whether—

(*a*) any person is an emigrant, or

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[1] Subs. by the A. O. 1948 for " British India ".
[2] Ins. by the Indian Emigration (Amendment) Act, 1927 (27 of 1927), s. 2.
[3] Subs. by the A. O. 1937 for " G. G. in C."
[4] Subs. by the A. O. 1937 for " Gazette of India ".

(*b*) any work is skilled or unskilled, or

(*c*) any person has been assisted otherwise than by a relative, within the meaning of this Act, the question shall be determined by such person and in such manner as the [1][Central Government] may prescribe, and such determination shall be final.

CHAPTER II.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

3. (*1*) [2][The Central Government] may appoint a person to be the Protector of Emigrants for any port situate [3][in [4][the ~~Provinces~~ States]] from which emigration is lawful.

(*2*) The [1][Central Government] may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(*3*) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

General duties of Protector.

4. Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall—

(*a*) protect and aid with his advice all emigrants ;

(*b*) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with ;

(*c*) inspect, at the time of arrival, to such extent and in such manner as the [1][Central Government] may prescribe, vessels bringing return emigrants to the port for which he is Protector ;

(*d*) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, and report thereon to the [1][Central Government] ;

(*e*) aid and advise return emigrants so far as he reasonably can ; and

(*f*) on being satisfied that any person intending to depart by sea out of [4][the Provinces] comes within one of the classes expressly excluded from the definition of emigrant in section 2, furnish such person with a certificate to the effect that such person is not an emigrant for the purpose of this Act.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "Subject to the control of the G. G. in C., the L. G."

[3] Subs. by the A. O. 1937 for "within the territories administered by it".

[4] Subs. by the A. O. 1948 for "British India".

Power to appoint persons to exercise functions of a Protector.

5. (*1*) In any specified area where there is not a Protector of Emigrants, the [1][Central Government] [2]* * * may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

(*2*) Every person so appointed shall be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Appointment of Medical Inspectors.

6. (*1*) The [1][Central Government] may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

(*2*) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Agents in foreign countries.

7. The [3][Central Government] may, for the purpose of safeguarding the interests of emigrants in any place outside [4][the Provinces], appoint persons to be agents in such places, and may define their powers and duties.

Advisory Committees.

8. The [1][Central Government] may, for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 5, constitute an Advisory Committee in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such committee.

CHAPTER III.

EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

Ports from which emigration of unskilled workers is lawful.

9. (*1*) Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, [5]* Negapatam, Tuticorin and Dhanushkodi, and from such other ports as the [3][Central Government] may, by notification in the [6][Official Gazette], declare to be ports from which such emigration is lawful.

(*2*) The [1][Central Government] may, by notification in the [7][Official Gazette], fix for the purposes of this Act the limits of any port from which such emigration is lawful.

Countries to which emigration of unskilled workers is lawful.

10. (*1*) Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the [3][Central Government], by notification[8] in the [6][Official Gazette], may specify in this behalf.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] The words "subject to the control of the G. G. in C." rep. by the A. O. 1937.
[3] Subs. by the A. O. 1937 for "G. G. in C."
[4] Subs. by the A. O. 1948 for "British India".
[5] The word "Karachi" rep. by the A. O. 1948.
[6] Subs. by the A. O. 1937 for "Gazette of India".
[7] Subs. by the A. O. 1937 for "local official Gazette".
[8] For such notification, *see* Gen. R. & O., Vol. V, pp. 8 to 10.

(2) No notification shall be made under sub-section (1) unless it has been laid in draft before [1]* * the [2][~~Central Legislature~~ Parliament] and has been approved by a resolution of [3][~~that Legislature~~ Parliament], either without modification or addition, or with modifications and additions to which [4][that Legislature agrees], but, upon such approval being given, the notification may be issued in the form in which it has been so approved.

Power to suspend emigration of unskilled workers.

11. (1) Where the [5][Central Government] has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, [6][it] may, by notification in the [7][Official Gazette], declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

[8][(2) Where the Protector of Emigrants for any port has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, he may, by notification in such manner as he thinks fit, declare that emigration to that country for the purpose of unskilled work from that port shall cease to be lawful pending a reference to the Central Government.]

(3) The [9][Protector of Emigrants] publishing a notification under sub-section (2) shall forthwith report such notification with the reasons for it to the [5][Central Government], [10][which] shall thereupon publish a notification in the [7][Official Gazette] confirming or cancelling the notification published by the [9][Protector of Emigrants].

Revocation of prohibition.

12. Where the [5][Central Government] is satisfied that the ground on which a notification under sub-section (1) of section 11, or a notification under sub-section (3) of section 11, confirming a notification of a [9][Protector of Emigrants] has been made with respect to any country has ceased to exist, [6][it] may, by notification in the [7][Official Gazette], declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

Powers of Central Government to prohibit emigration to specified country.

13. (1) The [5][Central Government] may, by notification in the [7][Official Gazette], prohibit, from a date, and for reasons, to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the territories under the administration of any [1][~~Provincial~~ State Government] or any specified part thereof, for the purpose of unskilled work.

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[1] The words "both chambers of" rep. by the A. O. 1948.
[2] Subs. by the A. O. 1937 for "Indian Legislature".
[3] Subs. by the A. O. 1948 for "each chamber".
[4] Subs. by the A. O. 1948 for "both chambers agree".
[5] Subs. by the A. O. 1937 for "G. G. in C."
[6] Subs. by the A. O. 1937 for "he".
[7] Subs. by the A. O. 1937 for "Gazette of India".
[8] Subs. by the A. O. 1937 for the original sub-section.
[9] Subs. by the A. O. 1937 for "L. G."
[10] Subs. by the A. O. 1937 for "who".

(*2*) Every notification issued under this section shall be laid before [2]* * the [3][~~Central Legislature~~ Parliament] as soon as may be after it is made.

Saving.

14. A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

CHAPTER IV.

EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

Ports from which emigration of skilled workers is lawful.

15. Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such other ports as the [4][Central Government] may, by notification in the [5][Official Gazette], specify in this behalf.

Emigration of skilled workers.

16. (*1*) Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of [6][the Central Government], and shall state in his application—

(*a*) the number of persons whom he proposes so to engage or assist ;

(*b*) the place beyond the limits of India to which each such person and his dependants are to proceed ;

(*c*) the accommodation to be provided for each such person and his dependants until their departure out of India and during the voyage.

(*2*) Whoever desires to engage any person for the purpose described in sub-section (*1*) shall, in addition to the information which he is required by that sub-section to supply in his application, further state therein—

(*a*) the provision to be made for the health and well-being of such person and his dependants during the period of the proposed engagement and for their repatriation at the end of such period ;

(*b*) the terms of the agreement under which such person is to be engaged ;

(*c*) the security in [7][th~~e Provinces~~ States] which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependants.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] The words "both chambers of" rep. by the A. O. 1948.
[3] Subs. by the A. O. 1937 for "Indian Legislature".
[4] Subs. by the A. O. 1937 for "G. G. in C."
[5] Subs. by the A. O. 1937 for "Gazette of India".
[6] Subs. by the A. O. 1937 for "the L. G. having jurisdiction at the port from which such person is to depart".
[7] Subs. by the A. O. 1948 for "British India".

Applications how to be disposed of.

17. On receiving an application under section 16, the [1][Central Government] may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the [1][Central Government] shall be final.

Appearance of engaged persons before, and resignation of names by Protector of Emigrants.

18. (*1*) Before any person departs from [2][the ~~Provinces]~~ States in accordance with permission granted under section 17, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation with such first-mentioned person and with any persons intending to accompany him as his dependants.

(*2*) If it appears to the Protector of Emigrants—

(*a*) that permission to engage or assist such person has been duly obtained,

(*b*) in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(*c*) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependants (if any) and concerning the person engaging or assisting him, and in such form, as the [1][Central Government] may prescribe.

Provisions as to security.

19. Where such security as is referred to in sub-section (*2*) of section 16 has been furnished, the [1][Central Government] may, at any time after making such inquiry as it may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

Delegation to Protector of Emigrants of authority to receive or dispose of applications.

20. The [1][Central Government] may, by notification in the [3][Official Gazette], authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter:

Provided that an appeal shall lie to the [1][Central Government] from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

Power to prohibit emigration

21. (*1*) Where the [4][Central Government] has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to of skilled workers.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1948 for "British India".
[3] Subs. by the A. O. 1937 for "local official Gazette".
[4] Subs. by the A. O. 1937 for "G. G. in C."

any country, [1][it] may, by notification in the [2][Official Gazette], declare that such emigration to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

(*2*) Every notification issued under this section shall be laid before [3]* * the [4][~~Central Legislature~~ Parliament] as soon as may be after it is made.

Saving.

22. Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of India as his personal domestic servant.

CHAPTER V.

RULES.

Power of Central Government to make rules.

23. [5]* * * The [6][Central Government] may, by notification in the [7][Official Gazette], make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (*2*) of section *2* shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the [5][Central Government] is by this Act empowered to prescribe.

Power for the Central Government to make rules.

24. (*1*) The [8][Central Government] may, by notification in the [2][Official Gazette], and after previous publication, make rules[9] for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the powers and duties of the several officers appointed by the [8][Central Government] under this Act;

[10][(*b*) the licensing, supervision and control of persons in [11][the ~~Provinces~~ States] engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of

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[1] Subs. by the A. O. 1937 for "he".
[2] Subs. by the A. O. 1937 for "Gazette of India".
[3] The words "both chambers of" rep. by the A. O. 1948.
[4] Subs. by the A. O. 1937 for "Indian Legislature".
[5] The words "Subject to the control of the G. G. in C." rep. by the A. O. 1937.
[6] Subs. by the A. O. 1937 for "L. G."
[7] Subs. by the A. O. 1937 for "local official Gazette".
[8] Subs. by the A. O. 1937 for "G. G. in C."
[9] For such rules, *see* Gen. R. & O., Vol. V, p. 11.

For fees in respect of emigrants to such countries, *see ibid.*, 1943-45 Vol., p. 320.

For the modifications with which the rules apply in Ceylon, the Straits Settlements, the Federated Malay States and Unfederated Malay States, *see ibid.*, p. 45.

[10] Subs. by the Indian Emigration (Amendment) Act, 1932 (16 of 1932), s. 2, for the original clause.
[11] Subs. by the A. O. 1948 for "British India".

emigrants, and the prohibition of unlicensed persons from being so engaged ;]

(*c*) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;

(*d*) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (*b*) ;

(*e*) the information to be furnished by persons licensed in accordance with rules framed under clause (*b*) to emigrants and the language in which such information is to be furnished ;

(*f*) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf ;

(*g*) the age below which persons of either sex may not emigrate except as dependants ;

(*h*) the accommodation, the provisions, fuel and other necessaries, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on [1][emigrant ships] ;

(*i*) the reception and the despatch to their homes of return emigrants ;

(*j*) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India ;[2]*

[3][(*k*) the issue of the permits referred to in sub-section (*1*) of section 30A ; and]

[4][(*l*)] generally, the security, well-being and protection of emigrants [5][up to the date of their departure from India, during a voyage on an emigrant ship] and on their return to India.

CHIPTER VI

OFFENCES.

Unlawful emigration or inducement to emigrate.

25. (*1*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(*2*) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(*a*) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or

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[1] Subs. by the Indian Emigration (Amendment) Act, 1927 (27 of 1927), s. 3, for " any ship specially chartered for the transport of emigrants ".

[2] The word " and " rep. by the Indian Emigration (Amendment) Act, 1938 (21 of 1938), s. 2.

[3] Ins. by s. 2, *ibid.*

[4] Original cl. (*k*) relettered (*l*) by s. 2, *ibid.*

[5] Subs. by s. 3, *ibid.*, for " both up to the date of their actual departure from India ".

(*Chapter VI.—Offences.*)

(*b*) [1][causes or assists, or attempts to cause or assist], any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

(*c*) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by seal out of [2][the Provinces] without registration of the particulars required by sub-section (*2*) of section 18,

shall be punishable with fine, which may extend to five hundred rupees.

[3][(*3*) When in the course of any proceedings in connection with emigration in which a person licensed in accordance with rules framed under clause (*b*) of sub-section (*2*) of section 24 is concerned, a breach of the provisions of this Act or of the rules made under this Act is committed, such person shall be liable to the punishment provided by sub-section (*2*), unless he shows that he was not responsible for and could not have prevented the commission of the breach.]

[4][(*4*)] If any person commits an offence under this section, any police-officer may arrest him without warrant.

Fraudulently inducing to emigrate.

26. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

27. Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

Sanction to prosecutions.

28. No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf, or, where there is no Protector or person so appointed and empowered, of the District Magistrate ;

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant, or intended emigrant or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

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[1] Subs. by the Indian Emigration (Amendment) Act, 1932 (16 of 1932), s. 3, for "induces, or attempts to induce".

[2] Subs. by the A. O. 1948 for "British India".

[3] Ins. by Act 16 of 1932, s. 3.

[4] The original sub-section (*3*) was renumbered as sub-section (*4*) by s. 3, *ibid.*

Power for Customs-officer to search and detain for purposes of Act.

29. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, [1][may be exercised, for the prevention of offences against this Act, by any such officer, or by a Protector of Emigrants, or a person appointed under section 5.]

CHAPTER VII

SUPPLEMENTAL.

Prohibition of departure by land under an agreement to work for hire in some country beyond the sea.

30. (*1*) The departure by land out of [2][the provinces] of any person under, or with a view to entering into, an agreement to work for hire, or when assisted, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

(*2*) Whoever departs, or attempts to depart, by land out of [2][the provinces] in contravention of this section, shall be deemed to have committed an offence under sub-section (*1*) of section 25.

(*3*) Whoever [3][causes or assists, or attempts to cause or assist], any person to depart by land out of [2][the provinces] in contravention of this section shall be deemed to have committed an offence under sub-section (*2*) of section 25.

Power to prohibit departure by sea from the Provinces for the purpose of unskilled work.

[4][**30A.** (*1*) The Central Government may, by notification in the official Gazette from a date and for reasons to be specified in the notification, prohibit all persons or any specified class of persons from departing by sea out of [2][the provinces] to any specified country beyond the limits of India for the purpose of unskilled work unless possessed of a prescribed permit or otherwise exempted by general or special order of the Central Government from the provisions of the notification.

(*2*) Every notification issued under this section shall be laid before [5]* * the ~~Central Legislature~~ Parliament as soon as may be after it is made.

(*3*) Whoever departs or attempts to depart out of [2][the provinces] in contravention of the notification issued under sub-section (*1*) shall be punishable with punishment provided for an offence under sub-section (*1*) of section 25.

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[1] Subs. by the Indian Emigration (Amendment) Act, 1940 (8 of 1940), s. 2, for "may be exercised by those officers for the prevention of offences against this Act".

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the Indian Emigration (Amendment) Act, 1932 (16 of 1932), s. 4, for "induces, or attempts to induce".

[4] Ins. by the Indian Emigration (Amendment) Act, 1938 (21 of 1938), s. 3.

[5] The words "both chambers of" rep. by the A. O. 1948.

(*4*) Whoever causes or assists or attempts to cause or assist any person to depart out of [1][the ~~Provinces~~ States] in contravention of a notification issued under sub-section (*1*) shall be punishable with the punishment provided for an offence under sub-section (*1*) of section 25.]

[2][(*5*) If any person commits an offence under this section, any police-officer may arrest him without warrant.]

CHAPTER VIII.

SAVINGS AND REPEAL.

Application of Act.

31. Nothing in this Act shall be deemed to apply to the departure out of [1][the Provinces] of—

(*i*) any person who is neither of Indian parentage nor a subject of a Part B [3][~~an Acceding~~ State], or

(*ii*) any person enrolled under the Indian Army Act, 1911. VIII of 1911.

32. [*Saving.*] *Rep. by the Repealing and Amending Act, 1939* (*XXXIV of 1939*), *s. 3 and Sch. II.*

33. [*Repeal.*] *Rep. by the Repealing Act, 1927* (*XII of 1937*), *s. 2 and Sch.*

THE DELHI UNIVERSITY ACT, 1922.

CONTENTS.

SECTIONS.
1. Short title and commencement.
2. Definitions.

THE UNIVERSITY.

3. The University.
4. Powers of the University.
5. Territorial exercise of powers.
6. University open to all classes, castes and creeds.
7. Teaching of the University.

OFFICERS OF THE UNIVERSITY.

8. Officers of the University.
9. The Chancellor.
10. The Pro-Chancellor.
11. The Vice-Chancellor.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Added by the Indian Emigration (Amendment) Act, 1940 (8 of 1940), s. 3.
[3] Subs. by the A. O. 1948 for "a State in India".

SECTIONS.
12. Powers and duties of the Vice-Chancellor.
13. The Rector.
14. The Treasurer.
15. The Registrar.
16. Other officers.

AUTHORITIES OF THE UNIVERSITY.

17. Authorities of the University.
18. The Court.
19. Meetings of the Court.
20. Powers and duties of the Court.
21. The Executive Council.
22. Powers and duties of the Executive Council.
23. The Academic Council.
24. The Faculties.
25. Other authorities of the University.

UNIVERSITY BOARDS.

26. University Boards.
27. Constitution, etc., of Boards to be prescribed by Ordinances.

STATUTES, ORDINANCES AND REGULATIONS.

28. Statutes.
29. Statutes how made.
30. Ordinances.
31. Ordinances how made.
32. Regulations

RESIDENCE.

33. Residence.
34. Colleges.
35. Halls.

ADMISSION AND EXAMINATIONS.

36. Admission to University courses.
37. Examinations.

ANNUAL REPORT AND ACCOUNTS.

38. Annual report.
39. Annual accounts.

SUPPLEMENTARY PROVISIONS.

40. Removal of names of registered graduates.
41. Disputes as to constitution of University authorities and bodies.
42. Constitution of committees.
43. Filling of casual vacancies.
44. Proceedings of University authorities and bodies not invalidated by vacancies.

SECTIONS.

45. Tribunal of Arbitration.
46. Pension and provident funds.

TRANSITORY PROVISIONS.

47. [*Repealed.*]
48. [*Repealed.*]

THE SCHEDULE.

THE STATUTES OF THE UNIVERSITY.

1. Definitions.
2. Constitution of the Court.
3. Constitution of the Executive Council.
4. Powers of the Executive Council.
5. The Academic Council.
6. Powers of the Academic Council.
7. The Faculties.
8. Powers of the Faculties.
9. Board of Co-ordination.
10. The Dean.
11. Warden.
12. Attachment to Colleges and Halls.
13. Withdrawal of degrees and diplomas.
14. Honorary degrees.
15. Registered graduates.
16. Officers.
17. Committee of selection.
18. Recognition of teachers.
19. Recognition of Colleges.
20. The Faculties.
21. The University teachers.
22. Registration of graduates.
23. Term of office of Vice-Chancellor.
24. Fellowship in Economics or History.
25. University scholarships.
26. Endowed scholarships.
27. Prizes.
28. Law Prize.
29. Provident (Permanent Appointment) Fund.
30.
31.
32. Provident (Temporary Appointments) Fund.
33. General Provisions relating to Colleges.
34. Instruction provided by Colleges.
35.

ACT No. VIII OF 1922.[1]

[5th March, 1922.]

An Act to establish and incorporate a unitary teaching and residential University at Delhi.

WHEREAS it is expedient to establish and incorporate a unitary teaching and residential University at Delhi ; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi University Act, 1922.

(*2*) It shall come into force on such [2]date as the [3][Central Government] may, by notification in the [4][Official Gazette], direct.

Definitions.

2. In this Act and in the Statutes, unless there is anything repugnant in the subject or context,—

(*a*) "College" means an institution maintained or recognized by the University in accordance with the provisions of this Act, in which instruction is provided under conditions prescribed in the Statutes, and in which provision is made for residence of students of the University ;

(*b*) "Hall" means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act ;

(*c*) "Patron of the University" means a person who has made a donation of not less than one lakh of rupees to the funds of the University, and has been declared by the Chancellor to be a Patron of the University ;

(*d*) "Principal" means the head of a College [5][and includes, when there is no Principal, the person for the time being duly appointed to act as Principal, and, in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such] ;

(*e*) "registered graduate" means a graduate registered under the provisions of this Act ;

(*f*) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University made under this Act ;

(*g*) "teachers" includes Professors, Readers, Lecturers and other persons imparting instruction in the University or in any College or Hall ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 12 ; and for Report of Joint Committee, *see ibid.*, 1922, Pt. V, p. 89.

[2] The 1st May, 1922, *see* Gen. R. & O., Vol. V, p. 49 ; Gazette of India, 1922, Pt. I, p. 384.

[3] Subs. by the A. O. 1937 for " G. G. in C."

[4] Subs. by the A. O. 1937 for " Gazette of India ".

[5] Added by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 2.

The University.

(*h*) "teachers of the University" means persons appointed or recognized by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College ;

(*i*) "University" means the University of Delhi ; and

(*j*) "Warden" means the head of a Hall.

The University.

3. (*1*) The first Chancellor and the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "the University of Delhi".

(*2*) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name.

Powers of the University.

4. The University shall have the following powers, namely:—

(*1*) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

(*2*) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(*a*) have pursued a course of study in the University, or [1][are non-collegiate women students residing within the territorial jurisdiction of the University, or]

(*b*) are teachers in educational institutions,

under conditions laid down in the Ordinances and Regulations, and have passed the examinations of the University under like conditions,

(*3*) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes,

(*4*) to grant such diplomas to, and to provide such lectures and instruction for, persons not being members of the University, as the University may determine,

(*5*) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine,

(*6*) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University,

(*7*) to appoint or recognize persons as Professors, Readers or Lecturers, or otherwise as teachers of the University,

(*8*) to institute and award Followships, Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Regulations,

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[1] Added by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 3.

(*The University.*)

(*9*) to maintain Colleges and Halls, to recognize Colleges and Halls not maintained by the University, and to withdraw such recognition,

(*10*) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances,

(*11*) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health and general welfare,

[1][(*11A*) to make grants from the funds of the University for assistance to forms of extra-mural teaching,]

(*12*) to make grants from the funds of the University for the maintenance of the University corps of the Indian Territorial Force, and

(*13*) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning.

Territorial exercise of powers.

5. (*1*) Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall not extend beyond a radius of 10 miles from the Convocation Hall of the University, and notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University:

Provided that nothing in this sub-section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the [2][Central Government].

(*2*) Notwithstanding anything in any other law for the time being in force, no educational institution within the afore-mentioned limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in [3][the Provinces], and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act:

Provided that the [2][Central Government] may, by order[4] in writing, direct that the provisions of this sub-section shall not apply in the case of any institution specified in the order.

University open to all classes, castes and creeds.

6. The University shall be open to all persons of either sex and of whatever race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein, or to graduate thereat, or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes, or, in respect of any particular benefaction accepted by the University, where such test is made condition thereof by any testamentary or other instrument creating such benefaction:

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[1] Ins. by Delhi University (Amendment) Act, 1943 (24 of 1943), s. 3.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1948 for "British India".

[4] For notifications directing that the provisions of this sub-section shall not apply to certain institutions, *see* Gazette of India, 1922, Pt. I, p. 491; and *ibid.*, 1923, Pt. I, pp. 259, 459 and 498.

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council.

Teaching of the University.

7. (*1*) All recognized teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University, and shall include lecturing, laboratory work and other teaching conducted in accordance with any syllabus prescribed by the Regulations.

[1]* * * * *

(*3*) The authorities responsible for organizing such teaching shall be prescribed by the Statutes.

(*4*) The courses and curricula shall be prescribed by the Ordinances and, subject thereto, by the Regulations.

(*5*) Save as otherwise expressly provided by this Act, it shall not be lawful for the University or any College to maintain classes, after the expiration of five years from the commencement of this Act, for the purpose of preparing students for admission to the University save with the sanction of the [2][Central Government] and during such period as [3][it] may direct, or at any time to frame courses, conduct examinations or recognise institutions for the purpose of preparing or testing students for admission to the University save with such sanction and during such period.

Officers of the University.

Officers of the University.

8. The following shall be the officers of the University:—

(*i*) the Chancellor,
(*ii*) the Pro-Chancellor,
(*iii*) the Vice-Chancellor,
(*iv*) the Rector,
(*v*) the Treasurer,
(*vi*) the Registrar,
(*vii*) the Deans of the Faculties, and
(*viii*) such other persons in the service of the University as may be declared by the Statutes to be Officers of the University.

The Chancellor

9. (*1*) The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the

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[1] Sub-section (*2*) rep. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 4.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "he".

Court, and shall, when present, preside at meetings of the Court and at any Convocation of the University.

(*2*) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(*3*) The Chancellor may address the Vice-Chancellor with reference to the results of such inspection or inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Chancellor and shall, after ascertaining, if he so thinks fit, the opinion of the Executive Council thereon, advise the University upon the action to be taken thereon.

(*4*) The Executive Council shall report to the Vice-Chancellor for communication to the Chancellor such action, if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry.

(*5*) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

(*6*) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

The Pro-Chancellor.

10. The Pro-Chancellor shall be appointed by the Chancellor and shall hold office for three years. He shall when present, in the absence of the Chancellor, preside at meetings of the Court and at any Convocation of the University.

The Vice-Chancellor.

11. (*1*) The Vice-Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes.

[1][Provided that, if the Chancellor of his own motion or at the instance of the Executive Council after consultation with the Academic Council is of opinion that a Vice-Chanceller should be appointed on the condition that he gives his whole time to the work of the University, the following provisions shall apply to the appointment of the Vice-Chancellor, namely:—

(*a*) The Vice-Chancellor shall hold office for four years ;

(*b*) The Vice-Chancellor shall receive salary at the rate of two thousand rupees per mensem, in addition to provision for his residence ;

(*c*) A committee of three persons, two of whom shall be persons not connected with the University or any College nominated by the Executive Council, and one person nominated by the Chancellor, who shall also appoint one of the three as chairman of the Committee, shall select not less than three persons and shall report its selection to the Executive Council. The Executive Council shall make its recommendations on the persons so selected to the Chancellor, who shall appoint one of such persons as Vice-Chancellor.]

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[1] Added by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 5.

(*2*) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Vice-Chancellor as he may think fit.

Powers and duties of the Vice-Chancellor.

12. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at meetings of the Court and at any Convocation of the University. He shall be an *ex-officio* member and Chairman of the Executive Council and of the Academic Council and shall be entitled to be present and to speak at any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of the authority or body concerned.

(*2*) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed, and he shall have all powers necessary for this purpose.

(*3*) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council.

(*4*) (*a*) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall, at the earliest opportunity thereafter, report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter.

(*b*) When action taken by the Vice-Chancellor under clause (*a*) affects any person in the service of the University, such person shall be entitled to prefer an appeal to the Executive Council through the said officer, authority or other body within fifteen days from the date on which such action is communicated to him.

(*5*) The Vice-Chancellor shall give effect to any order of he Executive Council regarding the appointment, dismissal or suspension of an officer or teacher of the University, or regarding the recognition or withdrawal of the recognition of any such teacher, and shall exercise general control in the University. He shall be responsible for the discipline of the University [1]* * *.

(*6*) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

The Rector.

13. The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions, and shall exercise such powers, and perform such duties, of the Vice-Chancellor, as the Chancellor, after consultation with the Vice-Chancellor, may direct.

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[1] The words "in accordance with this Act, the Statutes and the Ordinances" rep. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 6.

The Treasurer.

14. The Treasurer shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, upon such conditions and for such period, and shall receive such remuneration (if any), as the Executive Council shall deem fit. He shall be an *ex-officio* member of the executive Council, and shall—

(*1*) exercise general supervision over the funds of the University, and advise in regard to its financial policy ;

(*2*) subject to the control of the Executive Council, manage the property and investments of the University, and be responsible for the presentation of the annual estimates and statements of accounts ;

(*3*) subject to the powers of the Executive Council, be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted :

(*4*) sign all contracts made on behalf of the University ; and

(*5*) exercise such other powers as may be prescribed by the Statutes and the Ordinances:

Provided that the Chancellor may, on the recommendation of the Executive Council, in the case of any vacancy in the office of the Treasurer, whether permanent or otherwise, direct that the Registrar shall act as the Treasurer and perform all the duties and exercise all the powers of the Treasurer, and when any such direction has been made references to the Treasurer in this Act and the Statutes, Ordinances and Regulations shall be deemed to be references to the Registrar.

The Registrar.

15. The Registrar shall act as Secretary of the Court, the Executive Council and the Academic Council. He shall maintain a register of registered graduates in accordance with the Statutes, and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

Other officers.

16. The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector, the Treasurer and the Registrar shall be prescribed by the Statutes and the Ordinances.

Authorities of the University.

Authorities of the University.

17. The following shall be the authorities of the University:—

(*i*) the Court,

(*ii*) the Executive Council,

(*iii*) the Academic Council,

(*iv*) the Faculties, and

(*v*) such other authorities as may be declared by the Statutes to be authorities of the University.

(*Authorities of the University.*)

Class I.—Ex-officio members.

The Court.

18. (*1*) The Court shall consist of the following persons, namely:—

(*i*) The Chancellor,
(*ii*) the Pro-Chancellor,
(*iii*) the Vice-Chancellor,
(*iv*) the Rector,
(*v*) the Treasurer,
(*vi*) the Registrar,
(*vii*) the Principals,
(*viii*) the Professors and Readers of the University, and
(*ix*) such other *ex-officio* members as may be prescribed by the Statutes.

Class II.—Life members.

(*x*) The Patrons of the University and persons (if any) appointed by the Chancellor on the recommendation of the Executive Council to be life members on the ground that they have rendered great services to education or have made substantial donations to the University.

Class III.—Other members.

(*xi*) Graduates of the University elected by the registered graduates from among their own body,
(*xii*) persons elected from among their own body by the teachers who are not Professors or Readers of the University,
(*xiii*) persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court,
(*xiv*) persons elected by the elected members of [1][the Chambers of the Central Legislature] from among their own numbers,
(*xv*) persons appointed by the Chancellor, and
(*xvi*) a representative of the Governing Body of each College, elected or nominated by that Body.

(*2*) The number of members to be elected or appointed under clauses (*xi*), (*xii*), (*xiii*), (*xiv*) and (*xv*), and the tenure of office of members to be elected or appointed under each clause of Class III, shall be prescribed by the Statutes, and the mode of election of members to be elected under clauses (*xi*) and (*xii*) shall be prescribed by the Ordinances.

Meeting of the Court.

19. (*1*) The Court shall, on a date to be fixed by the Vice-chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

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[1] Subs. by the A. O. 1937 for "the Council of State and the Legislative Assembly"

(2) The Vice-Chancellor may, whenever he thinks fit, and shall upon a requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

Powers and duties of the Court.

20. Subject to the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely:—

(*a*) of making Statutes, and of amending or repealing the same,

(*b*) of considering and cancelling Ordinances, and

(*c*) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates,

and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

The Executive-Council.

21. The Executive Council shall be the executive body of the University, and its constitution and the terms of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

Powers and duties of the Executive Council.

22. The Executive Council—

(*a*) shall hold, control and administer the property and funds of the University, and for these purposes shall appoint a Finance Committee to advise it on matters of finance. The Treasurer shall be the Chairman of the Committee, and the remaining members shall be appointed from among the members of the Executive Council, provided that at least one member of the Committee shall be a member elected to the Executive Council by the Court ;

(*b*) shall determine the form, provide for the custody and regulate the use of the Common Seal of the University.

(*c*) shall lay before the [1][Central Government] annually a full statement of the financial requirements of the University and the Colleges ;

(*d*) shall administer any funds placed at the disposal of the University for specific purposes ;

(*e*) subject to the provisions of this Act and the Statutes, shall appoint the officers (other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector and the Treasurer), teachers, clerical staff and servants of the University, and shall define their duties and the conditions of their service, and shall provide for the filling of temporary vacancies in their posts ;

(*f*) shall have power to accept on behalf of the University transfers of any moveable or immoveable property ;

[2][(*ff*) shall have power subject to the Statutes, to recognise or withdraw recognition from a College or Hall not maintained by the University ;]

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Ins. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 7.

(*g*) shall arrange for the holding of, and publish the results of, the University examinations ;

(*h*) shall, subject to the powers conferred by this Act on the Vice-Chancellor, regulate and determine all matters concerning the University in accordance with this Act, the Statutes and the Ordinances:

Provided that no action shall be taken by the Executive Council in respect of the appointment or emoluments of examiners, or the number, qualifications or emoluments of teachers otherwise than on a recommendation of the Academic Council ; and

(*i*) shall exercise all other powers of the University, not otherwise provided for by this Act or the Statutes.

The Academic Council.

23. The Academic Council shall be the academic body of the University, and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The constitution of the Academic Council and the term of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

The Faculties.

24. (*1*) Provision shall be made, as soon as possible after the commencement of this Act, for the inclusion in the University of the Faculties of Arts, Science, Medicine, Commerce, Technology and Indian Fine Arts (including Music), and such other Faculties shall be included in the University (whether by the sub-division or combination of an existing Faculty or Faculties, or by the creation of a new Faculty or otherwise) as may be prescribed by the Statutes. Each Faculty shall, subject to the control of the Academic Council, have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances.

(*2*) The constitution and powers of the Faculties shall be prescribed by the Statutes.

(*3*) There shall be a Dean of each Faculty, who shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Faculty.

(*4*) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances. The head of every such Department shall be the Professor of the Department or ; if there is no Professor, the Reader. If there is more than one Professor or more than one Reader of a Department, the Vice-Chancellor shall appoint to be head of the Department such one of the Professors or, if there is no Professor, such one of the Readers as he thinks fit. The head of the Department shall be responsible to the Dean for the organization of the teaching in that Department.

(5) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty, and shall hold office as Dean for such term as may be prescribed by the Statutes.

Other authorities of the University.

25. The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes.

University Boards.

University Boards.

26. The University shall include a Residence, Health and Discipline Board and such other Boards as may be prescribed by the Statutes.

Constitution, etc., of Boards to be prescribed by Ordinances.

27. The constitution, powers and duties of the Residence, Health and Discipline Board and of all other Boards of the University shall be prescribed by the Ordinances.

Statutes, Ordinances and Regulations.

Statutes.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the conferment of honorary degrees ;

(*b*) the institution of Fellowships, Scholarships, Exhibitions and Prizes ;

(*c*) the term of office and conditions of service of the Vice-Chancellor ;

(*d*) the designations and powers of the officers of the University ;

(*e*) the constitution, powers and duties of the authorities of the University ;

(*f*) the institution of Colleges and Halls and their maintenance ;

[1][(*g*) the conditions for the recognition by the Executive Council of Colleges and Halls not maintained by the University and for the withdrawal of such recognition, and the management of such Colleges and Halls ;]

(*h*) the mode of appointment and recognition of teachers of the University ;

(*i*) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers, clerical staff and servants of the University ;

(*j*) the maintenance of a register of registered graduates ; and

(*k*) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes how made.

XXIV of 1943.

29. [2][(*1*) On the commencement of the Delhi University (Amendment) Act, 1943, the Statutes of the University shall be those set out in the Schedule.]

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[1] Subs. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 8, for the original cl.

[2] Subs. by s. 9, *ibid.*, for the original sub-section.

(*2*) The Statutes may be amended, repealed or added to by Statutes made by the Court in the manner hereinafter appearing.

(*3*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may pass the Statute, or a part of it, in the form in which it has been proposed, or may reject the Statute or part of it, or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest.

(*4*) Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the [1][Central Government], whose decision shall be final.

(*5*) Where any Statute has been passed or a draft of a Statute or part thereof has been rejected by the Court, it shall be submitted to the [1][Central Government] [2][which] may refer the Statute or draft back to the Court for further consideration or, in the case of a Statute passed by the Court, assent thereto or withhold [3][its] assent. A Statute passed by the Court shall have no validity until it has been assented to by the [1][Central Government].

(*6*) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted to the [1][Central Government].

(*7*) Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.

Ordinances.

30. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the admission of students to the University and their enrolment as such ;

(*b*) the courses of study to be laid down for all degrees and diplomas of the University ;

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for " who ".
[3] Subs. by the A. O. 1937 for " his ".

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas ;

(*d*) the conditions of residence of the students of the University ;

(*e*) the emoluments and conditions of service of teachers of the University ;

(*f*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, and diplomas of the University ;

(*g*) the giving of religious instruction ;

(*h*) the formation of Departments of teaching in the Faculties ;

(*i*) the constitution, powers and duties of the Boards of the University ;

(*j*) the conduct of examinations ; and

(*k*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

Ordinances how made.

31. (*1*) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council:

Provided that—

(*i*) no Ordinance shall be made affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board, and

(*ii*) no Ordinance shall be made—

(*a*) affecting the admission or enrolment of students, or prescribing examinations to be recognized as equivalent to the University examinations or prescribing the further qualifications mentioned in sub-section (*2*) of section 36 for admission to the degree courses of the University, or

(*b*) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(*2*) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (*1*), but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(*3*) All Ordinances made by the Executive Council shall be submitted as soon as may be, to the [1][Central Government] and the Court, and shall be considered by the Court at its next meeting. The Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall, from the date of such resolution, be void.

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[1] Subs. by the A. O. 1937 for " G. G. in C."

(Statutes, Ordinances and Regulations.)

(*4*) The [1][Central Government] may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council [2][its] disallowance of such Ordinance, and, from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void.

(*5*) The [1][Central Government] may direct that the operation of any Ordinance shall be suspended until [3][it] has had an opportunity of exercising [2][its] power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(*6*) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the [1][Central Government] [4][which] may, if [3][it] approves the draft make the Ordinance. An Ordinance made under this sub-section shall cease to have effect on the expiration of six months from the making thereof.

Regulations.

32. (*1*) The authorities and the Boards of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

- (*a*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum ;
- (*b*) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations ; and
- (*c*) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes or the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings, and for keeping of a record of the proceedings of meetings.

(*3*) The Executive Council may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the annulment of any Regulation made under sub-section (*1*):

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the [1][Central Government], whose decision in the matter shall be final.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "his".
[3] Subs. by the A. O. 1937 for "he".
[4] Subs. by the A. O. 1937 for "who".

Residence.

Residence.

33. Every student of the University shall reside in a College or a Hall, or under such conditions as may be prescribed by the Statutes and the Ordinances.

Colleges.

XXIV of 1943.

34. [1][*1*) The Colleges shall be such as may, after the commencement of the Delhi University (Amendment) Act, 1943, be recognised by the Executive Council in accordance with this Act and the Statutes, but shall include all Colleges recognised at the commencement of the said Act as Colleges of the University so long as such recognition continues.]

(*2*) The conditions of residence in the Colleges shall be prescribed by the Ordinances, and every College shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University authorized in this behalf by the Executive Council.

Halls.

35. (*1*) The Halls shall be such as may be maintained by the University or approved and recognized by the Executive Council on such general or special conditions as may be prescribed by the Ordinances.

(*2*) The Wardens and superintending staff of the Halls shall be appointed in the manner prescribed by the Statutes.

(*3*) The conditions of residence in the Halls shall be prescribed by the Ordinances, and every Hall shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University or other person authorized in this behalf by the Executive Council.

(*4*) The Executive Council shall have power to suspend or withdraw the recognition of any Hall which is not conducted in accordance with the conditions prescribed by the Ordinances.

Admission and Examinations.

Admission to University courses.

36. (*1*) Admission of students to the University shall be made by an admission committee (including at least one Principal) appointed for that purpose by the Academic Council.

(*2*) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, [2][or the Higher Secondary Examination of the Board of Higher Secondary Education for the Delhi Province], or an examination recognized in accordance with the provisions of this section as equivalent [3][to either such examination], and possess such further qualifications, [2][if any], as may be prescribed by the Ordinances. Any such qualification may be tested by examination notwithstanding anything contained in sub-section (*5*) of section 7:

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[1] Subs. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 10, for the original sub-section.

[2] Ins. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 11.

[3] Subs. by s. 11, *ibid.*, for " thereto ".

Provided that, during a period of five years from the commencement of this Act and such further period as the [1][Central Government] may direct, any student who has passed a Matriculation Examination of any such University, or any examination recognised in accordance with the provisions of this section as equivalent thereto, [2][and possesses such further qualifications as may be prescribed by the Ordinances], may be deemed eligible for admission to the University. [3][Any such qualification may be tested by examination, notwithstanding anything contained in sub-section (*5*) of section 7.]

(*3*) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(*4*) The University shall not, save with the previous sanction of the [1][Central Government], recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, [2][or to the Higher Secondary Examination of the Board of Higher Secondary Education for the Delhi Province], any examination conducted by any other authority.

Examinations.

37. (*1*) Subject to the provisions of this Act and of the Statutes, all arrangements for the conduct of examinations shall be made by the Academic Council in such manner as may be prescribed by this Act and the Ordinances.

(*2*) If, during the course of an examination, any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy, and shall report the appointment to the Executive Council.

(*3*) At least one examiner who is not [4][a teacher or other person in the service of the University or a College] shall be appointed for each subject included in a Department of teaching and forming part of the course which is required for a University degree.

(*4*) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to moderate and prepare the results of the examinations and to report such results to the Executive Council [5][through the Academic Council] for publication.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Ins. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 11.
[3] Added by Act 24 of 1943, s. 11.
[4] Subs. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 12, for "a member of the University".
[5] Ins. by s. 12, *ibid.*

Annual Report and Accounts.

Annual report.

38. The annual report of the University shall be prepared under the direction of the Executive Council. and shall be submitted to the Court on or before such date as may be prescribed by the Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council.

Annual accounts.

39. (*1*) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the [1][Central Government] for the purposes of audit.

(*2*) The accounts when audited shall be published by the Executive Council in the [2][Official Gazette], and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court and to the [1][Central Government]. The Executive Council shall also submit to the Court, on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(*3*) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council.

Supplementary Provisions.

Removal of names of registered graduates.

40. The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Court for the time being in India, have power to remove the name of any person from the register of registered graduates.

Disputes as to constitution of University authorities and bodies.

41. If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

Constitution of committees.

42. Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, save as otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

Filling of casual vacancies.

43. All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon as conveniently may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities and bodies not invalidated by vacancies.

44. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1937 for "Gazette of India",

Tribunal of Arbitration.

45. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the [1][Arbitration Act, 1940], and all the provisions of that Act, with the exception of section 2 thereof, shall apply accordingly. X of 1940.

Pension and provident funds.

46. (*1*) The University shall constitute, for the benefit of its officers, teachers, clerical staff and servants, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

(*2*) Where any such pension, insurance or provident fund has been so constituted, [2][or where any such pension, insurance or provident fund has been constituted by a College under rules which have been approved by the Central Government], the [3][Central Government] may declare that the provisions of the Provident Funds Act, [4][1925], shall apply to such funds, as if it were a Government Provident Fund. XIX of 1925.

[5]* * * * * * *

47. [*Removal of difficulties.*] *Rep. by the Delhi University (Amendment) Act, 1943 (XXIV of 1943)* s. *15*.

48. [*Completion of courses for students at Delhi Colleges.*] *Rep. by the Delhi University (Amendment) Act, 1943 (XXIV of 1943)*, s. *15*.

[6][THE SCHEDULE.

THE STATUTES OF THE UNIVERSITY.

[*See* Section 29 (*1*).]

1. *Definitions.*—In these Statutes, unless there is anything repugnant in the subject or context,—

(*a*) "the Act" means the Delhi University Act, 1922, as amended from time to time and "section" means a section of the Act ; and

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[1] Subs. by the Delhi University (Amendment) Act, 1943 (24 of 1943), s. 13, for "Indian Arbitration Act, 1899".

[2] Ins. by s. 14, *ibid*.

[3] Subs. by the A. O. 1937, for "G. G. in C."

[4] Subs. by s. 3 and Sch. II of the Repealing and Amending Act, 1940 (32 of 1940), for "1897".

[5] The heading "Transitory Provisions" rep. by Act 24 of 1943, s. 15.

[6] Subs., *ibid*., s. 16, for the original Sch.

(*b*) "officers," "authorities," "Professors," "Readers," "Lecturers," "clerical staff" and "servants" mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University.

2. *Constitution of the Court* [section 18 (*1*) (*ix*)].—(1) In addition to the officers mentioned in sub-section (*1*) of section 18, the following persons shall be *ex-officio* members of the Court, namely:—

(*i*) the Chief Commissioner of Delhi ;
(*ii*) the Director General, Indian Medical Service ;
(*iii*) the Educational Adviser to the Government of India ;
(*iv*) the Director of Public Instruction in the Punjab ;
(*v*) the Superintendent of Education, Delhi and Ajmer-Merwara ;
(*vi*) the Chairman of the Punjab Chamber of Commerce ;
(*vii*) the Chairman of the Muslim Chamber of Commerce, Delhi ;
(*viii*) the Chairman of the Delhi Municipality ;
(*ix*) the Chairman of the Delhi District Board ;
(*x*) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi ;
(*xi*) the Senior Medical Officer, Delhi ;
(*xii*) the Sadrs of the Majlis-e-Awkaf constituted under Act XIII of 1943 ;
(*xiii*) the Wardens.

(*2*) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five.

(*3*) [Section 18 (*2*)].—The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten.

(*4*) The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed twelve.

(*5*) The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be four and eight respectively.

(*6*) The number of persons to be appointed by the Chancellor under clause (*xv*) of sub-section (*1*) of section 18 shall be twenty-five, of whom not less than eighteen shall be appointed to secure the representation of minorities not otherwise in his opinion adequately represented.

(*7*) Save as otherwise provided, members of the Court other than *ex-officio* members shall hold office for a period of three years:

Provided however that a member nominated or elected in his capacity as a member of a particular body or as the holder of a particular appointment shall hold office so long only within the said period as he continues to be a member of that body or the holder of that appointment as the case may be.

3. *Constitution of the Executive Council* (section 21).—(*1*) The members

of the Executive Council, in addition to the Vice-Chancellor, the Rector and the Treasurer, shall be—

Class I.—Ex-officio members.

(*i*) the Superintendent of Education, Delhi and Ajmer-Merwara ;
(*ii*) the Deans of the Faculties ;
(*iii*) the Principals of recognised Colleges ;
(*iv*) the Educational Adviser to the Government of India ;

Class II.—Other members.

(*v*) five members of the Court elected by the Court at its annual meeting, of whom at least two shall be graduates of the University elected by the registered graduates from among their own number ;

(*vi*) two members of the Academic Council elected by the Academic Council ;

(*vii*) one member to be appointed by the Professors of the University (salaried and honorary) from their own number ;

(*viii*) four persons nominated by the Chancellor, of whom at least two shall be women.

(2) Members other than *ex-officio* members shall hold office for a period of three years:

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them.

4. *Powers of the Executive Council* [section 28 (*e*)].—Subject to the provisions of the Act, the Executive Council shall have the following powers, namely:—

(*a*) to institute, at its discretion, such Professorships, Readerships, Lectureships or other teaching posts as may be proposed by the Academic Council ;

(*b*) to abolish or suspend, after report from the Academic Council thereon, any Professorship, Readership, Lectureship, or other teaching post ;

(*c*) to appoint or recognise teachers of the University and to appoint officers, clerical staff and servants, in accordance with the Statutes ;

(*d*) to appoint all examiners after considering the recommendations of the Academic Council ;

(*e*) to delegate, subject to such conditions as may be prescribed by Regulations made by the Executive Council, its power to appoint officers, clerical staff and servants to such person or authority as the Executive Council may determine ;

(*f*) to manage and regulate the finances, accounts, investments, property and all administrative affairs whatsoever of the University, and, for that purpose, to appoint such agents as it may think fit ;

(*g*) to accept bequests, donations and transfers of property to the University:

Provided that all such bequests, donations and transfers shall be reported to the Court at its next meeting ;

(*h*) to provide the buildings, premises, furniture, apparatus, equipment and other means needed for carrying on the work of the University ;

(*i*) after report from the Finance Committee, to enter into, vary, carry out, confirm and cancel contracts on behalf of the University ;

(*j*) to invest any monies belonging to the University, including any unapplied income, in any of the securities described in section 20 of the Indian Trusts Act, 1882 (II of 1882), or in the purchase of immoveable property in India, with the like power of varying such investments ; or to place on fixed deposit in any bank approved in this behalf by the Central Government any portion of such monies not required for immediate expenditure.

5. *The Academic Council* (section 23).—(*1*) The members of the Academic Council, in addition to the Vice-Chancellor and the Rector shall be—

Class I.—Ex-officio members.

(*i*) the Deans of the Faculties ;

(*ii*) the Principals ;

(*iii*) the Professors and Readers ;

(*iv*) the Librarian of the University ;

Class II.—Other members.

(*v*) persons, if any, not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the *ex-officio* members of the Academic Council ;

(*vi*) five persons appointed by the Chancellor who are capable of advising the Academic Council on subjects connected with Islamic learning and culture ;

(*vii*) two persons elected by the Court.

(*2*) The Academic Council as constituted under sub-clause (*1*) shall co-opt as members, teachers of the University not exceeding one-tenth of its numbers as so constituted.

(*3*) Members other than *ex-officio* members shall hold office for a period of three years:

Provided that teachers of the University co-opted as such shall hold office so long only within the said period as they continue to be teachers of the University.

(*The Schedule.*)

6. *Powers of the Academic Council* (section 23).—The Academic Council shall have the following powers, namely:—

(*a*) to make proposals to the Executive Council for the institution of Professorships, Readerships, Lectureships or other teaching posts, and in regard to the duties and emoluments thereof ;

(*b*) to make Regulations for, and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards ;

(*c*) to recommend examiners for appointment after report from the Faculties concerned ;

(*d*) to control the University Library, to frame Regulations regarding its use, and to appoint a Library Committee under the general control of the Academic Council to manage the affairs of the Library ;

(*e*) to assign subjects to the Faculties ;

(*f*) to assign teachers to the Faculties ;

(*g*) to promote research within the University and to require reports on such research from the persons employed thereon ;

(*h*) to provide for the inspection of Colleges and Halls in respect of the instruction and discipline therein, and to submit reports thereon to the Executive Council ;

(*i*) to organise the teaching of the University and to control the work of teachers and Colleges.

7. *The Faculties* [section 24 (*2*)].—(*1*) Each Faculty shall consist of—

(*i*) the heads of the Departments comprised in the Faculty ;

(*ii*) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council ;

(*iii*) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council, an important bearing on those subjects, as may be appointed to the Faculty by the Academic Council ;

(*iv*) Such other persons as may be appointed to the Faculty by the Academic Council on account of their possessing expert knowledge in a subject or subjects assigned to the Faculty.

(*2*) The total number of members of each Faculty shall not exceed, in the case of the Faculties of Arts and Science, twenty-five, and in the case of any other Faculty, fifteen, except with the sanction of the Chancellor given on the request of the Academic Council.

8. *Powers of the Faculties* [section 24 (*2*)]—Subject to the provisions of the Act each Faculty shall have the following powers, namely:—

(*a*) to constitute Committees of Courses and Studies ; (*b*) to recommend to the Academic Council the courses of studies for the different examinations, after consulting the Committees of Courses and Studies ; (*c*) to recommend to the Academic Council, after consulting the Committees of Courses and Studies, the names of examiners in subjects assigned to the Faculty ; (*d*) to recommend to the Academic Council the conditions for the award of degrees, diplomas and other distinctions ; (*e*) subject to the control of the Academic Council, to organise research in the subjects assigned to the Faculty ; and (*f*) to deal with any matter referred to it by the Academic Council.

9. *Board of Co-ordination* (section 26).—There shall be a Board of Co-ordination composed of the Vice-Chancellor, who shall be Chairman thereof. the Rector, the Deans of the Faculties and the Registrar, to co-ordinate the teaching of the University, and in particular to co-ordinate the work and time-tables of the various Faculties, and to assign lecture-rooms, laboratories and other rooms to the Faculties.

10. *The Dean* [sections 16 and 24 (5)].—(*1*) The Dean of each Faculty shall be the executive officer of the Faculty, and shall preside at its meetings. He shall hold office for three years.

(*2*) He shall issue the lecture lists of the University in the Departments comprised in the Faculty, and shall be responsible for the conduct of teaching therein.

(*3*) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee.

11. *The Warden* [section 35 (*2*)].—The appointment of a Warden shall, in the case of a Hall maintained by the University, be made by the Executive Council, and in other cases be subject to the approval of the Executive Council.

12. *Attachment to Colleges and Halls* (section 33).—Every student not residing in a College or Hall shall be attached to a College or Hall for tutorial help and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances:

Provided that special exemption from the provisions of this Statute may be made available to women students under conditions to be prescribed by the Ordinances.

13. *Withdrawal of degrees and diplomas* (section 20).—The Court may, on the recommendation of the Executive Council, by a resolution passed with the concurrence of not less than two-thirds of the members voting, withdraw any degree or diploma conferred by the University.

14. *Honorary degrees* [sections 4(*3*) and 28 (*a*)].—(*1*) All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation:

Provided that, in cases of urgency, the Chancellor may act on the recommendation of the Executive Council only.

(*2*) Any honorary degree conferred by the University may, with the previous approval of two-thirds of the members present at any meeting of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council.

15. *Registered graduates* [sections 2(*e*) and 28 (*j*)].—The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates, namely, all graduates of the University of three years' standing and upwards.

16. *Officers* [section 8 (VIII)].—There shall be the following officers, namely:—

(*i*) two Proctors to assist the Vice-Chancellor in the maintenance of discipline in the University and (*ii*) a Librarian for the University Library.

17. *Committee of Selection* [section 28 (*h*)].—(*1*) No person shall be appointed or recognised as a teacher of the University except on the recommendation of a Committee of Selection constituted for the purpose.

(*2*) The Committee of Selection shall consist of the following members, namely:—

(*i*) the Vice-Chancellor,

(*ii*) the Educational Adviser to the Government of India,

(*iii*) a person elected by the Academic Council, who need not be a member of the Academic Council but shall be a person unconnected with any of the Colleges,

(*iv*) a person nominated by the Chancellor, and,

where the appointment or recognition of a Professor is in question,

(*v*) a person, not connected with the University or any College, with expert knowledge of the subject concerned, appointed by the Executive Council, and

(*vi*) the Dean of the Faculty concerned unless he is himself a candidate ;

where the appointment or recognition of a Reader is in question,

(*v*) a person, not connected with the University or any College, with expert knowledge of the subject concerned, appointed by the Executive Council, and

(*vi*) the head of the Department concerned ;

where the appointment or recognition of a teacher other than a Professor or Reader is in question,

(*v*) a person not connected with the University or any College, appointed by the Executive Council, and

(*vi*) the head of the Department concerned ; provided that the Principal of the College concerned shall serve as an Adviser on the Committee of Selection.

(The Schedule.)

(*3*) The Committee of Selection appointed under sub-clause (*1*) shall report to the Executive Council which shall, if it accepts the recommendation of the Committee, make the appointment or confirm the recognition as the case may be. If the Executive Council does not accept the recommendation of the Committee, it shall refer the case to the Chancellor, who shall appoint or recognise such persons as he thinks fit :

Provided that before referring the case to the Chancellor, the Executive Council shall inform the College concerned of its decision and the grounds therefor, and the College shall be entitled to make representation thereon. The representation of the College, if any, together with the decision of the Executive Council and the grounds therefor, shall be laid before the Chancellor.

(*4*) Nothing in this Statute shall be construed as prohibiting the University from accepting a gift for the establishment of a Professorship, Lectureship or other post, subject to a condition that the person appointed to the post shall be selected in such manner as shall have been agreed between the donor and the University.

18. *Recognition of teachers.*—(*1*) The qualifications of recognised teachers of the University shall be such as may be determined by the Ordinances.

(*2*) All applications for the recognition of teachers of the University shall be made in such manner as may be laid down by the Regulations made by the Executive Council in that behalf.

(*3*) The period of recognition of a teacher of the University as Professor, Reader or Lecturer shall be determined by the Ordinances made in that behalf. A person in the service of a College, recognised as a teacher of the University otherwise than as a Profesor, Reader or Lecturer, shall continue to be recognised so long as he is in the service of the College.

(*4*) The Executive Council may, on a reference from the Vice-Chancellor, withdraw recognition from a teacher:

Provided that the teacher or the College concerned may, within a period of thirty days from the date of the order of withdrawal, appeal against the order to the Chancellor whose decision shall be final.

19. *Recognition of Colleges* [section 34 (*1*)].—(*1*) The following Colleges, namely:—

(*a*) St. Stephen's College, (*b*) Hindu College, (*c*) Ramjas College, (*d*) Anglo-Arabic College, (*e*) Commercial College, and (*f*) Indraprastha Girls' College shall be recognised as Colleges of the University, teaching in such subjects as the Executive Council, on the recommendation of the Academic Council, may, from time to time, authorise them to teach.

(*2*) Nothing in this Statute shall be deemed to restrict any powers conferred on the Executive Council to withdraw recognition from any College in accordance with these Statutes.

(*The Schedule.*)

20. *The Faculties* [section 24 (*1*)].—(*1*) The following Faculties shall be included in the University, namely:—

(*a*) the Faculty of Arts, (*b*) the Faculty of Science, and (*c*) the Faculty of Law.

(*2*) The Members of each Faculty other than those mentioned in sub-clause (*i*) of clause (*1*) of Statute 7 shall hold office for a period of two years.

21. *The University teachers* [section 2 (*h*) and Statute 4 (*c*)].—(*1*) Teachers of the University shall be:—

(*i*) Appointed teachers of the University ;

(*ii*) Recognised teachers of the University.

(*2*) Appointed teachers of the University shall be either—

(*a*) servants of the University paid by the University and appointed by the Executive Council as Professors, Readers, or Lecturers or otherwise as teachers of the University, or (*b*) persons appointed by the Executive Council as Honorary Professors, Readers or Lecturers or otherwise as teachers of the University.

(*3*) " Recognised teachers of the University " shall be members of the staff of a recognised College of the University, recognised by the Executive Council as Professors, Readers, or Lecturers, or otherwise as teachers of the University, whose teaching in their own College, in subjects for which they are recognised, shall be regarded as recognised teaching in Courses of Study pursued in the University.

22. *Registration of graduates* [sections 2 (*e*) and 28 (*j*). Statute 15].—(*1*) Application for enrolment in the register of registered graduates shall be made in the applicant's own handwriting to the Registrar in the form prescribed for the purpose by Regulations.

(*2*) No graduate shall be entitled to have his name enrolled, and retained in the register of registered graduates except on payment of the following fees, namely:—

(*a*) an initial fee of three rupees and (*b*) an annual fee of two rupees for ten years or a compounded fee of fifteen rupees.

(*3*) On the Registrar being satisfied that the application is in order, and after receipt of the prescribed fee, he shall cause the name of the applicant to be enrolled in the register.

(*4*) The annual fee shall be payable in advance by the 1st day of December every year. If any registered graduate fails to pay the fee by that day, the Registrar shall cause his name to be removed from the register.

(*5*) A registered graduate whose name has been removed under sub-clause (*4*) of this Statute may, by payment of all arrears to the University, have his name re-enrolled in the register of registered graduates.

(*6*) No graduate shall be enrolled or re-enrolled under sub-clause (*3*) or (*5*) during a period of thirty days immediately preceding an election of graduates of the University for membership of the Court.

23. *Term of office of Vice-Chanceller* [sections 11 (*1*) and 28 (*c*)].—Except as provided in the Act the Vice-Chancellor shall hold office for a period of two years.

24. *Fellowship in Economics or History* [sections 4 (*8*) and 28 (*b*)].—There may be a University Fellowship in Economics or History of the value of one hundred rupees per mensem for one year which may be extended on the recommendation of the Dean of the Faculty concerned for another year, for the encouragement of research or original work under such conditions as the Academic Council may prescribe by Regulations.

25. *University scholarships* [sections 4 (*8*) and (28) (*b*)].—(*1*) Two scholarships each year of the value of twenty-five rupees per mensem for students for the M.A. examination and two scholarships each year of the value of twenty-five rupees per mensem for students for the M.Sc. shall be awarded for merit on the result of the B.A. or B.Sc. examination.

Provided that if less than two suitable candidates are available for either M.A. or M.Sc., the scholarship, or scholarships, thus set free, may be transferred for the occasion to the M.Sc. and M.A. respectively, but only to candidates who have been placed in the first class.

(*2*) Eight scholarships each year of the value of ten rupees per mensem, *plus* tuition fee each, shall be awarded—five on the result of the Intermediate examination, Faculty of Arts, and three on the result of the Intermediate examination, Faculty of Science.

(*3*) One scholarship each year of the value of ten rupees per mensem *plus* tuition fee, shall be awarded on the results of the Intermediate examination (Arts or Science) to the best woman candidate, provided she has secured at least 50 per cent. of the aggregate marks in the examination.

(*4*) (*a*) Three scholarships each year of the value of ten rupees per mensem, *plus* tution fee each, shall be awarded to students who have secured the highest percentage of marks in the Matriculation examination of any University established by law for the time being in force in [1][the Provinces] or an examination recognised as equivalent thereto, and who also satisfy the University in any supplementary examination that may be demanded by the University.

(*b*) Three scholarships each year of the value of ten rupees per mensem, *plus* tuition fee each, shall be awarded to students who have secured the highest percentage of marks in the High School examination of the Board of Secondary Education, Delhi.

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[1] Subs. by the A. O. 1948 for "British India".

(The Schedule.)

26. *Endowed scholarships* [sections 4 (*8*) and 28 (*b*)].—(*1*) There shall be the following scholarships and medals:—

(*i*) Harichand Puranchand Khatri Scholarship of the value of twelve rupees and annas eight per mensem awarded for one year to the best Hindu Khatri student who stands highest in the Matriculation examination or an examination recognised by the University as equivalent to the Matriculation examination held in Delhi during a period of five years from the commencement of the Delhi University Act and such further period, as the Central Government may direct, and joins any one of the Colleges of the University either in the Faculty of Arts or Science.

(*ii*) Tulsanrani Harichand Puranchand Khatri Scholarship of the value of twelve rupees and annas eight per mensem awarded for one year to the best Hindu Khatri student who stands highest in the Faculty of Arts or Science in the Intermediate examination of the University or an examination recognised as equivalent thereto, and joins any one of the Colleges of the University in the Faculty of Arts or Science.

(*iii*) Rai Bahadur Brijmohanlal Saheb Sudhi Memorial Scholarship of the value of fifteen rupees per mensem, tenable for two years for training in higher grade electrical engineering, awarded every second year to a Science graduate selected in accordance with, and under conditions prescribed by, Regulations made in that behalf.

(*2*) *Endowed medals* [sections 4 (*8*) and 28 (*b*)].—(*i*) M. Makhan Lal Gold Medal of the value of one hundred rupees awarded to the best Hindu lady candidate in the University every year.

(*ii*) M. Bhola Nath Gold Medal of the value of one hundred rupees awarded every year to the best Hindu candidate in the B.A. examination provided he knows Sanskrit.

(*iii*) L. Jageshar Nath Goela Medal of the value of one hundred rupees awarded to the best candidate in Technical education every year:

Provided that so long as the University does not provide for Technical education the medal shall be awarded to the best candidate in Law.

(*iv*) Rai Bahadur Brijmohanlal Saheb Memorial Gold Medal awarded to the candidate who passes the examination for the degree of B.A. or B.Sc. of the University being or having been a student of a constituent College of the University with the highest percentage of marks.

(*v*) Pandit Raghubar Dayal Gold Medal of the value of fifty rupees awarded annually to the best candidate in Sanskrit under conditions prescribed by Regulations made in that behalf.

(*vi*) Ravi Kanta Devi Gold Medal awarded annually to the lady candidate who passes the Intermediate examination of the University with the highest percentage of marks under conditions prescribed by Regulations made in that behalf.

27. *Prizes* [sections 4 (*8*) and 28 (*b*)].—(*1*) There shall be a Rector's Prize of the value of one hundred and fifty rupees to be given annually to the best under-graduate in the form of books, instruments or apparatus for the encouragement of general knowledge and ability under such Regulations as the Academic Council may prescribe.

(*2*) There shall be a prize called "Hiralal Bhargava Prize" of the value of forty rupees to be awarded annually to the best Bhargava student under conditions to be prescribed by Regulations:

Provided that the prize shall not be awarded to the same student twice.

28. *Law prize* [sections 4 (*8*) and 28 (*b*)].—A candidate who is placed first in the first class at the LL.M. examination shall receive an honorarium or a prize of books to the value of two hundred rupees.

29. *Provident* (*Permanent Appointments*) *Fund* [sections 46 (*1*) and 28 (*i*)].—(*1*) There shall be a Provident Fund for the benefit of the permanent officers, teachers, clerical staff and servants of the University.

(*2*) The management of the Provident Fund shall vest in the Executive Council which may, from time to time, make Regulations or issue such general or special directions as may be consistent with the Statutes as to—

(*a*) the conduct of the business of the Fund and (*b*) any matter relating to the Fund, or its management or the privileges of the depositors, not herein expressly provided for, or vary, or cancel any Regulations made or directions given.

(*3*) (*i*) Every servant of the University holding a permanent substantive appointment and receiving salary of thirty rupees per mensem or more shall be entitled and required to subscribe to the Provident Fund. Part-time, temporary or officiating servants, or servants appointed for fixed periods, shall not be so entitled.

(*ii*) Persons appointed on probation to substantive appointments will be entitled to subscribe to the Provident Fund, but in case their services terminate before their confirmation they shall not be entitled to receive any portion of the University contribution or the interest accruing thereon.

(*iii*) No employee of the University shall be entitled to the benefits of the Provident Fund whose services in the University entitle him to a pension or on whose account the University contributes towards his pension or who has been appointed by the University on a consolidated salary or on special terms.

(*4*) Every servant of the University entitled to the benefits of the Provident Fund shall be required to sign a written declaration in the prescribed form that he has read this Statute and agrees to abide by it, and shall hand in for registration in the University Office the names of the person or persons to whom he wishes the balance at his credit to be paid in the event of his death.

The subscriber may, from time to time, add or change his nominee by written application to the Executive Council.

A register of such nominees shall be kept in the University Office.

(*5*) The rate of subscription shall be 8 per cent. of the monthly salary and the amount calculated on this basis shall be deducted from the monthly salary of the employee.

NOTE.—No subscription or contribution shall be made to the Provident Fund of an employee who is on leave without pay.

(*6*) The University shall, in the case of each subscriber, make a monthly contribution at the rate of 12 per cent. of his salary.

(*7*) (*i*) The amounts accruing to the Fund shall be placed in such Bank or Banks as may be approved, from time to time, by the Executive Council, or invested in securities authorised by the Indian Trusts Act, 1882 (II of 1882), at the discretion of the Exeecutive Council.

Interest at the rate fixed for the purpose by the Executive Council, from time to time, shall be credited to each subscriber's account.

(*ii*) The subscription paid by a subscriber and the contribution by the University shall be entered monthly in a separate account for each subscriber.

(*iii*) The accounts of the Fund shall be audited once a year and a statement of the total amount to the credit of each subscriber shall be furnished to him.

(*8*) A subscriber at the termination of his service shall be entitled to receive the amount which accumulates to his credit.

(*9*) On a subscriber's death, the amount at the credit of the subscriber shall be paid to the person or persons duly nominated by him or when no such nomination is made, to his legal heir or heirs.

(*10*) The amount at the credit of a subscriber shall not be subject to any deduction even to cover loss or damage sustained by the University through the subscriber's misconduct or negligence.

(*11*) (*i*) No final withdrawal shall be allowed until the termination of the subscriber's service or his death. But in case of necessity of which the Executive Council shall be the sole judge, the Executive Council may allow a subscriber an advance of a sum not exceeding the total amount subscribed by him at a rate of interest one per cent. higher than the rate at which interest is credited to subscribers.

(*ii*) Recoveries towards the amount advanced shall be made with interest in monthly instalments not exceeding thirty as may be decided by the Executive Council, commencing from the first payment of a full month's salary after the advance is granted, but no recovery shall be made from a subscriber when he is on leave otherwise than on full pay.

(*iii*) When a subscriber has already taken an advance, he shall not be eligible for a fresh advance until the amount already advanced has been fully paid up.

(*1*2) Notwithstanding the provisions of the proceeding clauses of this Statute, all matters relating to, or arising out of, the constitution and management of the Provident Fund specified in Clause (*1*) of this Statute, shall, in respect of the period prior to the 19th day of June, 1928, be governed and regulated by the original Statute made in that behalf on the 28th day of September, 1922, by the Governor General in Council in exercise of the power conferred on him by section 47.

NOTE.—In the foregoing clauses of this Statute, "subscription" means the amount paid by the subscriber, and "contribution" means the amount contributed by the University.

30. (Section 38).—The Annual Report of the University shall be submitted to the Court one month before the annual meeting of the Court.

31. [Section 39 (*2*)].—The Executive Council shall submit to the Court one month before the annual meeting of the Court a statement of the financial estimates for the ensuing year.

32. *Provident* (*Temporary Appointments*) *Fund* [sections 46 (*1*) and 28 (*i*)].—(*1*) There shall be a Provident Fund for the benefit of the officers, teachers, clerical staff and servants of the University, appointed to a substantive post for a period of not less than two years.

(*2*) The management of the Provident Fund shall vest in the Executive Council which may, from time to time, make Regulations or issue such general or special directions as may be consistent with the Statutes as to—

(*a*) the conduct of the business of the Fund and (*b*) any matter relating to the Fund, or its management or the privileges of the depositors, not herein provided for, or vary, or cancel any Regulations made or directions given.

(*3*) (*i*) Every whole-time servant of the University appointed to a substantive post for a period of not less than two years and receiving a salary of thirty rupees per mensem or more shall be entitled and required to subscribe to the Provident Fund.

(*ii*) Persons appointed on probation to substantive appointments will be entitled to subscribe to the Provident Fund, but in case their services terminate before their confirmation they shall not be entitled to receive any portion of the University contribution or the interest accruing thereon.

(*iii*) No employee of the University shall be entitled to the benefits of the Provident Fund whose services in the University entitle him to a pension or on whose account the University contributes towards his pension or who has been appointed by the University on a consolidated salary or on special terms.

(*4*) Every servant of the University entitled to the benefits of the Provident Fund shall be required to sign a written declaration in the prescribed form that he has read this Statute and agrees to abide by it, and shall hand in for registration in the University Office the names of the person or persons to whom he wishes the balance at his credit to be paid in the event of his death.

The subscriber may, from time to time, add or change his nominee by written application to the Executive Council.

A register of such nominees shall be kept in the University Office.

(*5*) The rate of subscription shall be 8 per cent. of the monthly salary, and the amount calculated on this basis shall be deducted from the monthly salary of the employee.

NOTE.—No subscription or contribution shall be made to the Provident Fund of an employee who is on leave without pay.

(*6*) The University shall, in the case of each subscriber, make a monthly contribution at the rate of 12 per cent. of his salary.

(*7*) (*i*) The amounts accruing to the Fund shall be placed in such Bank or Banks as may be approved, from time to time, by the Executive Council or invested in securities authorised by the Indian Trusts Act, 1882 (II of 1882), at the discretion of the Executive Council.

Interest at the rate fixed for the purpose by the Executive Council, from time to time, shall be be credited to each subscriber's account.

(*ii*) The subscription paid by a subscriber and the contribution by the University shall be entered monthly in a separate account for each subscriber.

(*iii*) The accounts of the Fund shall be audited once a year and a statement of the total amount to the credit of each subscriber shall be furnished to him.

(*8*) A subscriber at the termination of his service shall be entilted to receive the amount which accumulates to his credit.

(*9*) On a subscriber's death, the amount at the credit of the subscriber shall be paid to the person or persons duly nominated by him or when no such nomination is made, to his legal heir or heirs.

(*10*) The amount at the credit of a subscriber shall not be subject to any deduction even to cover loss or damage sustained by the University through the subscriber's misconduct or negligence.

(*11*) (*i*) No final withdrawal shall be allowed until the termination of the subscriber's service or his death. But in case of necessity of which the Executive Council shall be the sole judge, the Executive Council may allow a subscriber an advance of a sum not exceeding the total amount subscribed by him at a rate of interest one per cent. higher than the rate at which interest is credited to subscribers.

(*ii*) Recoveries towards the amount advanced shall be made with interest in monthly instalments not exceeding thirty as may be decided by the Executive Council, commencing from the first payment of a full month's salary after the advance is granted, but no recovery shall be made from a subscriber when he is on leave otherwise than on full pay.

(*iii*) When a subscriber has already taken an advance, he shall not be eligible for a fresh advance until the amount already advanced has been fully paid up.

(*12*) Notwithstanding the provisions of the preceding clauses of this Statute, all matters relating to, or arising out of, the constitution and management of the Provident Fund specified in clause (*1*) of this Statute shall, in respect of the period prior to the 19th day of June, 1928, be governed and regulated by the original Statute made in that behalf on the 28th day of September, 1922, by the Governor General in Council in exercise of the power conferred on him by section 47.

Note.—In the foregoing clauses of this Statute, "subscription" means the amount paid by the subscriber, and "contribution" means the amount contributed by the University.

33. *General provisions relating to Colleges* [section 28 (*g*)].—(*1*) Save as otherwise provided in the Act, all Degree Colleges shall be in close proximity to one another and to the University and shall ordinarily be located on the University estate:

Provided that the Executive Council shall have the power to exempt from the provisions of the foregoing clause, temporarily, or, if necessary, permanently, a College which is unable to comply therewith for want of a suitable site or an adequate grant-in-aid for building or maintenance.

(*2*) *Management.*—Every recognised College shall be a public educational institution ; the whole of its funds shall be appropriated to its own educational purposes and shall be fully controlled by its Governing Body.

(*3*) Each College recognised by the University shall be managed by a regularly constituted Governing Body which shall include the Principal and at least two other members of the teaching staff of the College elected by the teaching staff including the Principal and not less than two members appointed by the University. The rules relating to the constitution and powers of the Governing Body and the appointment, powers and duties of the Chairman and other officers of the Governing Body shall be such as may be prescribed by the Ordinances.

(*4*) Any change in the constitution, powers or personnel of the Governing Body of a recognised College shall be reported forthwith to the Executive Council.

(*5*) The Principal of a College shall be responsible for the internal administration and discipline of the College.

(*6*) Every College shall have a duly constituted College Council properly representative of the teaching staff, to advise the Principal in the administration of the College.

(*7*) Every College shall satisfy the Executive Council that adequate financial provision is available for its continued and efficient maintenance, either in the form of an endowment or by an undertaking given by the person or body maintaining it.

(*8*) Tuition and other fees fixed by a College shall not be below the minimum rates prescribed by the Ordinances in this behalf.

(*9*) Every College shall maintain such registers and records as may be prescribed by the Ordinances and furnish such statistical and other information as the University may, from time to time, specify.

(*10*) Every College shall submit each year by a date to be fixed by the Executive Council a report to the Executive Council on the working of the College during the previous year, giving the particulars and circumstances of any change in the staff or the management, the number of students and a statement of income and expenditure and such other information as may be required.

(*11*) Recognition.—A College applying for recognition by the University shall make a written application to the Registrar so as to reach him not later than 15th October preceding the academic year from which the recognition sought is to take effect.

(*12*) A College applying for recognition shall satisfy the University on the following points:—

(*a*) that it guarantees a satisfactory standard of educational efficiency for the purpose for which recognition is sought, and that it is established on a permanent basis:

(*b*) that its financial resources are such as to make due provision for its continued maintenance ;

(*c*) that it is under proper management and is suitably organised ;

(*d*) that its buildings are suitable and sufficient ;

(*e*) that the furniture and library and laboratory equipment are adequate ;

(*f*) that the provision for the residence, discipline and supervision of of students is satisfactory ;

(*g*) that due provision is made for the health and recreation of students ;

(*h*) that the qualifications and number of its teaching staff are adequate, and the conditions of their service such as may be approved by the University ;

(*i*) such other matters as are necessary for the maintenance of the tone and standards of University education.

(*13*) A College applying for recognition shall give full information in the application on the following matters :—

(*a*) constitution and personnel of its Governing Body ;

(*b*) standards and subjects in respect of which recognition is sought ;

(*c*) accommodation, library and laboratory equipment and strength of the College ;

(*d*) number, qualifications, work, emoluments and conditions of service of teachers ;

(*e*) provision for hostels, playgrounds and the residence of the Principal and other members of the staff ;

(*f*) fees proposed to be levied ;

(*g*) the financial provision made for the continued maintenance of the College.

(*h*) such other matters as may be prescribed by the Ordinances.

(*14*) Every College shall comply with the relevant Statutes, Ordinances and Regulations of the University.

(*15*) Recognition shall in no case be granted with retrospective effect beyond the date on which the application was made.

(*16*) Where a College desires to raise the standard or alter the subjects in respect of which it is recognised, the procedure hereinbefore prescribed shall, so far as applicable, be followed.

(*17*) *Teaching staff.*—Every College shall have on its staff a minimum number of teachers maintained for co-operative teaching. The number of teachers and the scope of teaching shall be specified in each case by the University.

(*18*) Every teacher in a College shall be employed under a written contract stating the conditions of his service and the salary to be paid to him ; a copy of this contract shall be given to each teacher and a copy shall be lodged with the University.

(*19*) Any difference or dispute of any kind whatsoever arising out of a contract between a recognised College and a member of its teaching staff including the Principal shall be referred to the arbitration of an Appeal Committee of three independent persons appointed by the Chancellor. This Appeal Committee will deal with all matters under this clause which occur during the period for which such Committee is appointed which period shall not be less than two years. The Appeal Committee shall have power to enquire into facts and to interpret the terms of the agreement, if any. The decision of the Appeal Committee shall be final and binding on both parties and the Arbitration Act, 1940 (X of 1940), shall apply to such arbitration ;

Provided that this clause shall not apply in the case of a dispute arising in connection with the termination of the services of either the Principal or any member of the teaching staff of a recognised College who is on probation or on a temporary basis.

(*20*) Every College shall maintain a reasonable proportion of recognised teachers to students on its rolls. Such proportion and the maximum number of students on the rolls shall be determined by an Ordinance.

(*The Schedule.*)

(*21*) In the case of a College for women the staff shall, as far as possible, be composed of women only.

(*22*) The rules framed by the Governing Body of each College regarding the qualifications, emoluments and the conditions of service of every teacher in that College shall be such as may be approved by the University.

(*23*) A teacher dismissed for misconduct by a recognised College shall not be employed by any other recognised College without the previous consent in writing of the College dismissing.

(*24*) *Admission of students.*—Admission of students to a College shall be subject to the conditions prescribed by the Ordinances in this behalf.

(*25*) *Terms and holidays.*—Each College shall conform to the University terms, vacations and holidays.

(*26*) *Residence, health and discipline.*—Every College shall make adequate provision for the residence of its students not residing with their parents or recognised guardians and shall provide adequate facilities for the physical exercise, discipline and health of its students. Every College shall conform to the conditions of residence prescribed by the Ordinances and be subject to the control of the Board of Residence, Health and Discipline.

(*27*) The conditions of residence in a College shall be prescribed by the Ordinances and every College shall be subject to inspection by any member of the Residence, Health and Discipline Board authorised in this behalf by the Board and by any other person authorised in this behalf by the Executive Council.

(*28*) Every College to which women students as well as men are admitted shall provide separate reading and retiring rooms and other necessary conveniences for women students.

(*29*) *Inspection and enquiry.*—The Academic Council shall provide for the periodical inspection of each College in respect of the instruction, education and discipline therein and shall submit reports thereon to the Executive Council.

(*30*) The Executive Council may, whenever, necessary cause an inspection of a College to be made by such person or persons as it may deem fit.

(*31*) The Executive Council shall also have the power to cause an enquiry to be made in respect of any matter connected with a College. In every case notice shall be given to the management of the College of the intention to cause an enquiry to be made and the management shall be entitled to be represented thereat.

(*32*) The Executive Council may, on the report of the Academic Council, or as the result of the inspection or the enquiry made under the foregoing clauses (*30*) and (*31*) advise the College concerned on any matter relating to the report, inspection or enquiry, or direct the College, after considering any representation that it may make, to take such action as may be specified ; and the College shall take action as directed within such period as may be fixed.

(*33*) *Withdrawal of recognition.*—The Executive Council may, after due enquiry and after consultation with the Academic Council, by a majority of all the then members of the Executive Council withdraw the recognition granted to a College which has failed to comply with the conditions prescribed by the Statutes and Ordinances or imposed by the Executive Council at the date of recognition or at any later date. The Executive Council shall give the College an opportunity of appearing at any such enquiry as aforesaid and of making representations on its own behalf. The Executive Council shall inform the College of its decision and the College shall be entitled to appeal to the Central Government within thirty days of the receipt of any decision of the Executive Council to withdraw recognition, and the decision of the Central Government on the appeal shall be final.

(*34*) *Budget of financial requirements.*—Every College shall submit on or before 15th November each year a full statement of its financial requirements to the Executive Council for submission to the Central Government.

(*35*) When a College ceases to exist with the sanction of the University, the disposal of its assets, where not specifically provided for, shall be settled by the Governing Body, the University and the Central Government in consultation. If these bodies should fail to reach an agreement, the Central Government shall appoint an arbitrator whose decision shall be final.

(*36*) Every Governing Body shall maintain a Provident Fund for the benefit of members of its teaching staff, in accordance with rules prescribed by the Central Government.

(*37*) All trust funds belonging to the College or under the control of the Governing Body shall be shown separately in the accounts of the College.

(*38*) Investment of funds belonging to the College or under the control of the Governing Body shall be made in property and securities authorised by law for the investment of trust funds or such other classes of security as may, from time to time, be approved by the Central Government.

34. *Instruction provided by Colleges* [section 2 (*a*)].—(*1*) A College shall provide instruction in such subjects and up to such standard as it may be authorised to do, from time to time, by the Executive Council on the advice of the Academic Council.

(*2*) A College may not, without the previous permission of the Executive Council and the Academic Council, suspend instruction in any subject which it is authorised to teach and teaches.

(*3*) All recognised teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University (section *7*).

(*4*) " Recognised teachers of the University " shall be members of the staff of a recognised College of the University, recognised by the Executive Council as Professors, Readers, or Lecturers, or otherwise as teachers of the University, whose teaching in their own College, in subjects for which they are recognised, shall be regarded as recognised teaching in Courses of Study pursued in the University (Statute 21).

(*5*) No person shall be recognised by the Executive Council as a teacher of the University except on the recommendation of the Committee of Selection constituted for the purpose (Statute 17).

(*6*) The number of recognised teachers in a College, their qualifications, emoluments and the conditions of their service shall be such as may be determined by the Ordinances.

(*7*) The teaching work of Colleges shall be subject to the control of the Academic Council. The Executive Council may, after considering the advice of the Academic Council and in consultation with the authorities of the recognised College or Colleges of the University, direct that such part of the teaching of the University as may be prescribed by the Ordinances may be provided on a basis of co-operation among the Colleges or among the Colleges and the University.

(*8*) Teaching in the B.A. Honours and Post-graduate courses may be organised by the Academic Council on a basis of co-operation between the University and the Colleges or among the Colleges themselves through the Deans of Faculties concerned, and co-ordinated by the Board of Co-ordination. The principle of co-operative teaching may likewise be extended to the B.A. Pass in some selected departments or subjects where the small size of the classes makes its application possible or the nature of the subjects taught makes it desirable. Lectures delivered by a recognised teacher of a College under this clause, or by an appointed teacher of the University, shall be open to all students pursuing the course of study concerned in any College in the University.

(*9*) Arrangements for teaching other than B.A. Honours, Post-graduate courses and the courses of study in B.A. Pass on a co-operative basis, scheduled in the Ordinances according to the foregoing clause, shall be made by the Principal of a recognised College for the students of his own College. The time-table of each College for this teaching shall be framed by the Principal in co-operation with the Deans of the Faculties concerned.

(*10*) Lectures delivered by a recognised teacher of the University for the benefit of students of his own College may be open to students of any other College or Colleges, either by mutual agreement between the Colleges concerned, or under the direction of the Academic Council after securing the consent of the authorities of the College to which the teacher belongs.

(*11*) Every College shall be subject to inspection, from time to time, in respect of the instruction, education and discipline therein by one or more persons appointed by the Academic Council in this behalf. The Executive Council may, on the report of the Academic Council, advise the College concerned, on any matter relating to the report or direct the College, after considering any representation that it may make, to take such action as may be specified ; and the College shall take action as directed within such period as may be fixed.

35. There shall be a Board of Diploma Courses in Domestic Sciences. The constitution, powers and duties of the Board shall be prescribed by the Ordinances.

THE CIVIL PROCEDURE (AMENDMENT) ACT, 1922.

ACT NO. IX OF 1922.[1]

[*5th March, 1922.*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings.

IX of 1887.
V of 1908.

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908 ; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Civil Procedure (Amendment) Act, 1922.

(*2*) The [2][~~Provincial~~ State Government] may, [3]* * * * by notification in the [4][Official Gazette], direct that this Act shall come into force throughout the ~~Province~~ State or in any part thereof on such [5]date as may be specified in the notification.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 64 ; and for Report of Select Committee, *see ibid.*, 1922, Pt. V, p. 85.

[2] Subs. by the A. O. 1937 for "L. G."

[3] The words "with the previous sanction of the G. G. in C." rep. by the A. O. 1937.

[4] Subs. by the A. O. 1937 for "local official Gazette".

[5] The Act was brought into force in—
Assam, from 16th April, 1923, *see* Assam Gazette, 1923, Pt. II, p. 346 ;
Bengal, from 1st July 1924, *see* Calcutta Gazette, 1924, Pt. I, p. 1200 ;
Bihar and Orissa, from 15th November 1922, *see* Bihar and Orissa Gazette, 1922, Pt. II, p. 1062 ;
Bombay Presidency, from 1st January 1924, *see* Bombay Gazette, 1923, Pt. I, p. 3008 ;
Central Provinces, from 3rd March 1923, *see* Central Provinces Gazette, 1923, Pt. I, p. 208 ;
Madras, from 1st June, 1940, *see* Fort St. George Gazette, 1940, Pt. I, p. 549 ;
Punjab, from 1st January, 1931, *see* Punjab Gazette, 1931, Pt. I, p. 13 ;
United Provinces, from 3rd February, 1923, *see* United Provinces Gazette, 1923, Pt. I, p. 138.

Insertion of new section 35A in Act V of 1908.

2. In Part I of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), after section 35 the following section shall be inserted, namely:— V of 1908.

[*See the Unrepealed Central Acts, Vol. V.*]

Amendment of section 104, Act V of 1908.

3. In sub-section (*1*) of section 104 of the said Code,—

(*i*) after clause (*f*) the following clause shall be inserted, namely:—

[*See the Unrepealed Central Acts, Vol. V.*]

(*ii*) after clause (*i*) the following proviso shall be inserted, namely:—

[*See the Unrepealed Central Acts, Vol. V.*]

Amendment of Order XLI, Schedule I, Act V of 1908.

4. To rule 33 of Order XLI of the First Schedule to the said Code, the following proviso shall be added, namely:—

[*See the Unrepealed Central Acts, Vol. V.*]

Amendment of section 24, Act IX of 1887.

5. In section 24 of the Provincial Small Cause Courts Act, 1887, for the words and figures "section 588, clause (*29*) of the Code of Civil Procedure" the words and figures "clause (*ff*) or clause (*h*) of sub-section (*1*) of section 104 of the Code of Civil Procedure, 1908," shall be substituted; and after the words "District Court," the following words shall be added, namely:— IX of 1887. V of 1908.

[*See the Unrepealed Central Acts, Vol. III.*]

THE INDIAN INCOME-TAX ACT, 1922.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER I.

CHARGE OF INCOME-TAX.

3. Charge of income-tax.
4. Application of Act.
4A. Residence in British India.
4B. Ordinary residence.

CHAPTER II.

INCOME-TAX AUTHORITIES.

5. Income-tax authorities.

CHAPTER II-A.

APPELLATE TRIBUNAL.

SECTIONS.

5A. The Appellate Tribunal.

CHAPTER III.

TAXABLE INCOME.

6. Heads of income chargeable to income-tax.
7. Salaries.
8. Interest on securities.
9. Property.
10. Business.
11. *Omitted.*
12. Other sources.
12A. Managing Agency Commission.
12B. Capital Gains.
13. Method of accounting.
14. Exemptions of a general nature.
15. Exemption in the case of life insurances.
15A. Exemption of portion of earned income.
15B. Exemption on account of donations for charitable purposes.
16. Exemptions and exclusions determining the total income.
17. Determination of tax payable in certain special cases.

CHAPTER IV.

DEDUCTIONS AND ASSESSMENT.

18. Payment by deduction at source.
18A. Advance payment of tax.
19. Payment in other cases.
19A. Supply of information regarding dividends.
20. Certificate by company to shareholders receiving dividends.
20A. Supply of information regarding interest.
21. Annual return.
22. Return of income.
23. Assessment.
23A. Power to assess individual members of certain companies.
24. Set off of loss in computing aggregate income.
24A. Assessment in case of departure from British India.
24B. Tax of deceased person payable by representative.
25. Assessment in case of discontinued business.
25A. Assessment after partition of a Hindu undivided family.
26. Change in constitution of a firm.
26A. Procedure in registration of firms.

SECTIONS.

27. Cancellation of assessment when cause is shown.
28. Penalty for concealment of income or improper distribution of profits.
29. Notice of demand.
30. Appeal against assessment under this Act.
31. Hearing of appeal.
32. *Omitted.*
33. Appeals against orders of Appellate Assistant Commissioner.
33A. Power of revision by Commissioner.
34. Income escaping assessment.
35. Rectification of mistake.
36. Tax to be calculated to nearest anna.
37. Power to take evidence on oath, etc.
38. Power to call for information.
39. Power to inspect the register of members of any company.

CHAPTER V.

LIABILITY IN SPECIAL CASES.

40. Guardians, trustees and agents.
41. Courts of Wards, etc.
42. Income deemed to accrue or arise within British India.
43. Agent to include persons treated as such.
44. Liability in case of a discontinued firm or association.

CHAPTER V-A.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. Liability to tax of occasional shipping.
44B. Return of profits and gains.
44C. Adjustment.

CHAPTER V-B.

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX.

44D. Avoidance of income-tax by transactions resulting in the transfer of income to persons resident or ordinarily resident abroad.
44E. Avoidance of tax by certain transactions in securities.
44F. Avoidance of tax by sales *cum* dividend.

CHAPTER VI.

RECOVERY OF TAX AND PENALTIES.

45. Tax when payable.
46. Mode and time of recovery.
47. Recovery of penalties.

CHAPTER VII.

REFUNDS.

SECTIONS.

48. Refunds.
48A. *Omitted.*
49. Relief in respect of United Kingdom income-tax.
49A. Relief in respect of Indian State and Dominion income-tax.
49AA. Agreement for avoidance of double taxation in India and Pakistan.
49B. Income-tax on company's dividend deemed to have been paid by shareholder.
49C. Relief granted to a company to be deemed relief granted to shareholder.
49D. Relief in respect of tax charged in country not providing for relief in respect of British Indian income-tax.
49E. Power to set off amount of refunds against tax remaining payable.
49F. Power of representative of deceased person or person disabled to make claim on his behalf.
50. Limitation of claims for refund.
50A. *Omitted.*

CHAPTER VIII.

OFFENCES AND PENALTIES.

51. Failure to make payments or deliver returns or statements or allow inspection.
52. False statement in declaration.
53. Prosecution to be at instance of Inspecting Assistant Commissioner.
54. Disclosure of information by a public servant.

CHAPTER IX.

SUPER-TAX.

55. Charge of super-tax.
56. Total income for purposes of super-tax.
57. *Omitted.*
58. Application of Act to super-tax.

CHAPTER IX-A.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

58A. Definitions.
58B. The according and withdrawal of recognition.
58C. Conditions to be satisfied by a recognised provident fund.
58D. Power to relax restrictions of employers' contributions in certain cases.

SECTIONS.

58E. Annual accretion deemed to be income received.
58F. Exemption of annual accretion from income-tax.
58G. Exemption of accumulated balance from income-tax and super-tax.
58H. Deduction at source of income-tax payable on accumulated balances due.
58I. Accounts of recognised provident funds.
58J. Treatment of balances in newly recognised provident funds.
58K. Treatment of fund transferred by employer to trustee.
58L. Provisions relating to rules.
58M. Application of this Chapter.

CHAPTER IX-B.

SPECIAL PROVISIONS RELATING TO CERTAIN CASES OF SUPERANNUATION FUNDS.

58N. Definitions.
58O. Approval and withdrawal of approval.
58P. Conditions for approval.
58Q. Application for approval.
58R. Exemption of superannuation fund from income-tax.
58S. Treatment of repaid contributions.
58T. Deduction from pay of, and contributions on behalf of, employee to be included in return under section 21.
58U. Liabilities of trustees on cessation of approval of fund.
58V. Particulars to be furnished in respect of superannuation funds.

CHAPTER X.

MISCELLANEOUS.

59. Power to make rules.
60. Power to make exemptions, etc.
61. Appearance by authorised representative.
62. Receipts to be given.
63. Service of notices.
64. Place of assessment.
65. Indemnity.
66. Statement of case by Appellate Tribunal to High Court.
66A. References to be heard by Benches of High Courts and appeal to lie, in certain cases to Privy Council.
67. Bar of suits in Civil Court.
67A. Computation of periods of limitation.
67B. Act to have effect pending legislative provision for charge of income-tax.
68. [*Repealed.*]

SCHEDULE.

Rules for the computation of the profits and gains of insurance business.

For sub-sec. (2) of sec.1, the following section shall be substituted, namely:-

"(2) It extends to the whole of India, except the State of Jammu and Kashmir, and applies also within that State to all persons in the service of the Govt. of India or the Govt. of any State other than the State of Jammu & Kashmir".

ACT NO. XI OF 1922.[1]

[*5th March, 1922.*]

An Act to consolidate and amend the law relating to Income-tax and Super-tax.

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Income-tax Act, 1922.

[2][(*2*) It extends to the whole of British India, including [3]* * the Sonthal Parganas and applies also, within the Indian States and the tribal areas, to British subjects who are in the service of the Crown or of a local authority established in the exercise of the powers of [4]* * the Central Government in that behalf, and to all other servants of the Crown in the said States and areas.]

(*3*) It shall come into force on the first day of April, 1922.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate assessed and collected by [5][officers of the Crown] as such;

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*);

(*c*) any income derived from any building, owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) of clause (*b*) is carried on:

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 159; and for Report of Joint Committee, *see ibid.*, 1922, Pt. V, p. 31.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] Subs. by the A. O. 1937 for the original sub-section.

[3] The words "British Baluchistan and" rep., with effect from 15th August, 1947, by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[4] The words "the Crown Representative or" rep., with effect from 15th August, 1947, *ibid.*

[5] Subs. by the A. O. 1937 for "officers of Govt.".

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building ;

(*2*) " assessee " means a person by whom income-tax is payable ;

(*3*) [1][" Appellate] Assistant Commissioner " means a person appointed to be an [1][Appellate] Assistant Commissioner of Income-tax under section 5 ;

A. 450

[2][(*3a*) " British India " means, as respects any period before the 15th day of August, 1947, the territories then referred to as British India but including Berar, and as respects any period after the 14th day of August, 1947, the territories for the time being comprised in the Provinces of India ;]

(*4*) " business " includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture ;

[3][(*4a*) " capital asset " means property of any kind [4]* * held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

(*i*) any stock-in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation ;

(*ii*) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by by the assessee or any member of his family dependent on him;]

[5][(*iii*) any land from which the income derived is agricultural income;]

[6][[7][(*4b*)] " the Central Board of Revenue " means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924]. IV of 1924.

(*5*) " Commissioner " means a person appointed to be a Commissioner of Income-tax under section 5 ;

[8][(*6*) " company " means a company as defined in the Indian Companies Act, 1913 or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, or of a law of an Indian State, and includes any foreign association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act;] VII of 1

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 2.

[2] Ins. with effect from 15th August, 1947, by G. G. O. 31 dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[3] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 2, with effect from 31st March, 1947.

[4] The words and brackets " (other than agricultural land) " rep. by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), s. 2, with effect from 1st April, 1947.

[5] Ins. by s. 2, *ibid.*, with effect from 1st April, 1947.

[6] Ins. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch.

[7] Cl. (*4a*) was renumbered (*4b*) by Act 22 of 1947, s. 2, with effect from 31st March, 1947.

[8] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 2, for the original cl., as amended by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch.

of 1924.

'(6) "Company" means an Indian company as defined in clause (7-A) or any Indian or non-Indian association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act.' XLVIII/48.

[1][*(6a)* " dividend " includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;

(*b*) any distribution by a company of debentures or debenture-stock, to the extent to which the company possesses accumulated profits, whether capitalised or not ;

(*c*) any distribution made to the shareholders of a company out of accumulated profits of the company on the liquidation of the company:

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included ; and

(*d*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not:

Provided that ' dividend ' does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (*c*) or (*d*).

[2][Provided further that the expression ' accumulated profits ', wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946 ;]]

[3][*(6aa)* "earned income " means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company, a local authority, a registered firm or a firm treated as registered under clause (*b*) of sub-section (*5*) of section 23—

(*a*) which is chargeable under the head " Salaries "; or

(*b*) which is chargeable under the head " Profits and gains of business, profession or vocation " where the business, profession or vocation is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business, profession or vocation ; or

(*c*) which is chargeable under the head " Other sources " if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person ;

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 2.

[2] Subs. by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), s. 2, with effect from 1st April, 1947, for the former proviso which had been subs., with effect from 31st March, 1947, by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 2, for the Explanation.

[3] Ins. by the Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945), s. 2, with effect from 28th April, 1945 for indefinite period.

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (*2*) of section 14 or under a notification issued under section 60 ;]

[1][[2](*6b*)] " firm ", " partner " and " partnership " have the same meanings respectively as in [3][the Indian Partnership Act, 1932] ; [4][provided that the expression ' partner ' includes any person who being a minor has been admitted to the benefits of partnership] ; IX of 1932.

[4][(*6c*) " income " includes anything included in ' dividend ' as defined in clause (*6a*) and anything which under Explanation 2 to sub-section (*1*) of section 7 is a profit received in lieu of salary for the purposes of that sub-section and any sum deemed to be profits under the second proviso to clause (*vii*) of sub-section (*2*) of section 10 [5][any capital gain chargeable according to the provisions of section 12B] and the profits of any business of insurance carried on by a [6][mutual insurance association] computed in accordance with Rule 9 in the Schedule],

[4][(*6d*) " Inspecting Assistant Commissioner " means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5] ;

(*7*) " Income-tax Officer " means a person appointed to be an Income-tax Officer under section 5 ;

[7][(*7a*) " Indian company " means a company as defined in the Indian Companies Act, 1913, the registered office of which is situate in British India;] VII of 1913.

or a company formed & registered under a law in force in any of the Part B States
LXVII/49

(*8*) " Magistrate " means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by [8][the Central Government] to try offences against this Act ;

(*9*) "person" includes a Hindu undivided family [4][and a local authority];

(*10*) " prescribed " means prescribed by rules made under this Act ;

(*11*) " previous year " means [4][in respect of any separate source of income, profits and gains]—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up:

[9][Provided that where an assessee has once been assessed in respect of

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 2.

[2] Cl. (*6a*) was relettered (*6b*) by the Indian Income-tax (Amendment) Act, 1939, (7 of 1939), s. 2.

[3] Subs. by s. 2, *ibid.*, for " the Indian Contract Act, 1872 ".

[4] Ins. by s. 2, *ibid.*

[5] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947, (22

[6] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 2, for " mutual insurance company ".

[7] Ins. by the Indian Finance Act, 1948 (20 of 1948), s. 8.

[8] Subs. by the A. O. 1937 for " the L. G.".

[9] Subs. by Act 7 of 1939 s. 2, for the original proviso.

(b) for clause (14A) of section 2, the following clause shall be substituted, namely:-

(14-A) "taxable territories" means—

(a) as respects any period before the 15th day of August 1947, the territories then referred to as British India, but including Berar,

(b) as respects any period after the 14th day of August 1947, and before the 26th day of January 1950, the territories for the time being comprised in the Provinces of India, but excluding the merged territory of Cooch-Behar,

(c) as respects any period after the 25th day of January and before the 1st day of April 1950, the territories comprised in Part A States, but excluding the merged territory of Chhoch-Behar, and the territories comprised in Part C States, but excluding the States of Manipur, Tripura and Vindhya Pradesh,

(d) as respects any period after the 31st day of March 1950, and before the 13th day of April 1950, the territory of India excluding the State of Jammu and Kashmir and the Patiala and East Punjab States Union, and

(e) as respects any period after the 12th day of April 1950, the territory of India excluding the State of Jammu and Kashmir:

Provided that the taxable territories shall be deemed to include—

(a) the merged territories—

(i) as respects any period after the 31st day of March 1949, for any of the purposes of this Act, and

x (ii) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March 1950, or for any subsequent year;

(b) the whole of the territory of India excluding the State of Jammu and Kashmir—

(i) as respects any period, for the purposes of section ~~&~~ 4A and 4B,

(ii) as respets any period after the 31st day of March 1950, for any of the purposes of this Act, and

(iii) as respets any period included in the previous year for the purpose of making any assessment of the year ending on the 31st day of March 1951, or for any subsequent year;

and includes any such income which, though it is the income of another person, is in[..]ded in the assessee's income under the provisions of this Act, but does nc

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a particular source of income, profits and gains, he shall not in respect of that source exercise this option so as to vary the meaning of the expression 'previous year' as then applicable to him except with the consent of the Income-tax officer and upon such conditions as the Income-tax Officer may think fit ; or]

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the [1][Central Board of Revenue] or by such authority as the Board may authorise in this behalf ; [2][or

(*c*) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up to some other date than the 31st day of March and the case is not one for which a period has been determined by the Central Board of Revenue under sub-clause (*b*), then at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to such other date:

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March, it shall be deemed that there is no previous year ; and

when the assessee is a partner in a firm, 'previous year' in respect of his share of the income, profits and gains of the firm means the previous year as determined for the assessment of the income, profits and gains of the firm ;]

(*12*) "principal officer" used with reference to a local authority or a company or any other public body or [3][any] association, means—

(*a*) the secretary, treasurer, manager or agent of the authority, company, body or association ; or

(*b*) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

60. (*13*) "public servant" has the same meaning as in the Indian Penal Code;

[4][(*14*) "registered firm" means a firm registered under the provisions of section 26A] ;

(*15*) "total income" means total amount of income, profits and gains [5][referred to in sub-section (*1*) of section 4] computed in the manner laid down in [6][this Act], and

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[1] Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch., for "Board of Inland Revenue".

[2] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 2.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 2.

[4] Subs. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 2, for the original cl., with effect from 1st April, 1930.

[5] Subs. by Act 7 of 1939, s. 2, for "from all sources to which this Act applies".

[6] Subs. by s. 2, *ibid.*, for "section 16".

[1]["total world income" includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub-section (*3*) of section 4, this Act [2][does not apply and except any capital gain which is not includible in the total income of an assessee ;]]

(*16*) "unregistered firm" means a firm which is not a registered firm.

CHAPTER I.

CHARGE OF INCOME-TAX.

Charge of Income-tax.

S. A. omitted by A. O. 50

3. Where any [3][Act of the Central ~~Legislature~~ Act] enacts[4] that income-tax shall be charged for any year at any rate or rates, [5]* * * * * tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of [6][the total income] of the previous year of every [7][individual, Hindu undivided family, [8][company and local authority, and of every firm and other association of persons or the partners of the firm or members of the association individually]].

Application of Act.

4. [9][(*1*) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which—

taxable territories

(*a*) are received or are deemed to be received in ~~British India~~ in such year by or on behalf of such person ; or

(*b*) if such person is resident in ~~British India~~ during such year,—

(*i*) accrue or arise or are deemed to accrue or arise to him in ~~British India~~ during such year, or

(*ii*) accrue or arise to him without ~~British India~~ during such year, or

(*iii*) having accrued or arisen to him without ~~British India~~ before the beginning of such year and after the 1st day of April, 1933, are brought into or received in British India by him during such year, or

(*c*) if such person is not resident in ~~British India~~ during such year, accrue or arise or are deemed to accrue or arise to him in ~~British India~~ during such year:

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (*ii*) of clause (*b*) and the amount of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) but only the greater of these two amounts:

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 2.

[2] Subs. by the Income-tax and Excess Profits' Tax (Amendment) Act, 1947 (22 of 1947), s. 2, with effect from 31st March, 1947, for "does not apply ; and".

[3] Subs. by the A. O. 1937 for "Act of the Indian Legislature".

[4] For such enactments, *see* the annual Indian Finance Acts.

[5] The words "applicable to the total income of an assessee" rep. by Act 7 of 1939, s. 3.

[6] Subs. by s. 3, *ibid.*, for "all income, profits and gains".

[7] Subs. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 3, with effect from 1st April, 1923, for "individual company, firm and Hindu undivided family".

[8] Subs. by Act 7 of 1939, s. 3, for "company, firm and other association of individuals".

[9] Subs. by Act 7 of 1939, s. 4, for the former sub-sections (*1*) to (*2*).

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Provided further that, in the case of a person not ordinarily resident in ~~British India~~, income, profits and gains which accrue or arise to him without ~~British India~~ shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in British India by him during such year:

Provided further that if in any year the amount of income accruing or arising ~~without British India~~ exceeds the amount brought into ~~British India~~ in that year, there shall not be included in the assessment of the income of that year so much of such excess as does not exceed four thousand five hundred rupees.

taxable territories

Explanation 1.—Income, profits and gains accruing or arising without ~~British India~~ shall not be deemed to be received in or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance sheet prepared in British India.

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Explanation 2.—Income which would be chargeable under the

In sub-section (1) of section 4, after Explanation 3, the following Explanation shall be inserted, namely:-

"Explanation 4:- For the purposes of sub-clause (iii) of clause (b) of sub-section (1), income, profits and gains accruing or arising in any of themerged territories or any of the Part B States other than the State of Jammu and Kashmir before the beginning of a previous year and after the 1st day of April, 1933, shall be deemed to be brough into, or received in taxable territories during such year if, and only if, they are brought into or received in, any part of taxable territories other than that merged territory or State during such year.

in the total income of the person receiving them]:—

(*i*) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto ;

[3][(*ia*) Any income derived from business carried on on behalf of a religious or charitable institution when the income is applied solely to the purposes of the institution and—

- (*a*) the business is carried on in the course of the carrying out of a primary purpose of the institution, or
- (*b*) the work in connection with the business is mainly carried on by beneficiaries of the institution] ;

(*ii*) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes ;

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[1] Ins. by the Indian Finance Act, 1948 (20 of 1948), s. 8.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 4, for "This Act shall not apply to the following classes of income".

[3] Ins. by s. 4, *ibid.*

(*iii*) The income of local authorities [1][except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area] ;

(*iv*) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, [2][1925] applies, [3][and any capital gains of the Fund arising from the sale, exchange or transfer of such securities] [4]* * * * ; XIX of 1925.

[5]* * * * *

(*vi*) Any special allowance, benefit or perquisite specifically granted to meet expenses, wholly and necessarily incurred in the performance of the duties of an office or employment of profit ;

(*vii*) Any receipts [3][not being capital gains chargeable according to the provisions of section 12B and] not being receipts arising from business or the exercise of a profession, vocation or occupation which are of a casual and non-recurring nature or are not by way of addition to the remuneration of an employee ;

(*viii*) Agricultural income ;

[6][(*ix*) Any income received by trustees on behalf of a recognised provident fund as defined in clause (*a*) of section 58A] ;

[7][(*x*) Any income received—

(*a*) by a person accredited as representative in British India for political purposes of an Indian State or the Ruler thereof, as his remuneration from the State or Ruler for service in such capacity ;

(*b*) by a Consul General, Consul, Vice-Consul or Consular Agent of a foreign State, as remuneration from such State for service in such capacity ;

(*c*) by a person employed by the consulate of a foreign State, not being a citizen of India ~~British subject or the subject of an Indian State,~~ as remuneration from such foreign State for service in such capacity;

(*d*) by a Trade Commissioner or other official representative in ~~British~~ taxable territories India. of the Government of any ~~other~~ part of the Commonwealth ~~British Empire~~ or of a foreign Government, as his official salary, if the official salary of the corresponding officials, if any, of the Central Government resident for similar purposes in the country concerned enjoy a similar exemption in that country ;

(*e*) by a member of the staff of a Trade Commissioner or official

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 4.

[2] Subs. by s. 4, *ibid.*, for " 1897 ".

[3] Ins. by the Income-tax and Excess Tax (Amendment) Act, 1947 (22 of 1947), s. 3, with effect from 31st March, 1947.

[4] Certain words rep. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 4.

[5] Cl. (*v*) rep. by Act 7 of 1939, s. 4.

[6] Added by the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929), s. 2, with effect from 15th March, 1930.

[7] Ins. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 3.

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In sub-section (3) of section 4, after clause (xii) the following clause shall be inserted:-

"(xii) any income of a scientific research association which is, for the time being approved for the purposes of clause (xiii) of sub-section (2) of section 10 where the income is applied solely to the purposes of that association and accrues or arises after the 31st day of March, 1949".

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representative referred to sub-clause (*d*), as his official salary, when such member is a subject of the country represented, and the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Central Government ;

(*xi*) With effect from the 2nd day of September, 1939, the income chargeable under the head " salaries " of a Nepalese member of Nepalese Military Force serving with His Majesty's Forces, or of any member of an Indian State Force so serving, and any other income accruing or arising without British India which is received in or brought into British India by any such member while the Force to which he belongs is serving with his Majesty's Forces.

or after the commencement of the Constitution with the Armed forces of the Union.

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[1][(*xii*) Any income chargeable under the head " Income from property " in respect of a building the erection of which is begun and completed between the 1st day of April, 1946 and the 31st day of March [2][1952] (both dates inclusive), for a period of two years from the date of such completion.]

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility, [3][but nothing contained in clause (*i*), clause (*ia*) or clause (*ii*) shall operate to exempt from the provisions of this Act that part of the income of a private religious trust which does not ensure for the benefit of the public].

Residence in British India.

[4][**4A.** For the purposes of this Act—

(*a*) any individual is resident in ~~British India~~ in any year if he—

able territories

(*i*) is in ~~British India~~ in that year for a period amounting in all to one hundred and eighty-two days or more ; or

(*ii*) maintains or has maintained for him a dwelling place in ~~British India~~ for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in ~~British India~~ for any time in that year ; or

(*iii*) having within the four years preceding that year been in ~~British India~~ for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in ~~British India~~ for any time in that year otherwise than on an occasional or casual visit ; [5][or

(*iv*) is in ~~British India~~ for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in ~~British India~~ during that year is likely to remain in ~~British India~~ for not less than three years from the date of his arrival ;]

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 2, with effect from 4th May, 1946.

[2] Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for " 1948 ".

[3] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 4.

[4] Ss. 4A and 4B were ins. by s. 5, *ibid.*

[5] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 4.

(*b*) a Hindu undivided family, firm or other association of persons is resident in ~~British India~~ unless the control and management of its affairs is situated wholly without ~~British India~~ ; and

(*c*) a company is resident in ~~British India~~ in any year (a) if the control and management of its affairs is situated wholly in ~~British India~~ in that year, or (b) if its income arising in ~~British India~~ in that year exceeds its income arising without ~~British India~~ in that year [1][account not being taken in either case of income chargeable under the head " capital gain "].

Ordinary residence

taxable territories

4B. For the purposes of this Act—

(*a*) an individual is ' not ordinarily resident ' in ~~British India~~ in any year if he has not been resident in ~~British India~~ in nine out of ten years preceding that year or if he has not during the seven years preceding that year been in ~~British India~~ for a period of, or for periods amounting in all to, more than two years ;

(*b*) a Hindu undivided family is deemed to be ordinarily resident in ~~British India~~ if its manager is ordinarily resident in ~~British India~~;

(*c*) a company, firm or other association of persons is ordinarily resident in ~~British India~~ if it is resident in ~~British India~~.]

CHAPTER II.

INCOME-TAX AUTHORITIES.

Income-tax. authorities.

[2][5. (*1*) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely:—

(*a*) the Central Board of Revenue,

(*b*) Commissioners of Income-tax,

(*c*) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(*d*) Income-tax Officers.

(*2*) The Central Government may appoint a Commissioner of Income-tax for any area specified in the order of appointment, and may appoint Commissioners of Income-tax, not more than three in all, each to discharge, without reference to areas, and to the exclusion of any Commissioner appointed for any area, the functions of a Commissioner in respect of any cases or classes of cases assigned to him by the Central Board of Revenue.

(*3*) The Central Government may appoint [3]* * * as many Appellate or, Inspecting Assistant Commissioners of Income-tax and Income-tax Officers as it thinks fit.

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[1] Added by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 4, with effect from 31st March, 1947.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 6, for the former section.

[3] The words " for any area " rep. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 3, with effect from 1st April, 1939.

(*4*) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons, or classes of persons [1][or of such incomes or classes of income or] in respect of such areas as the Central Board of Revenue may direct [2][and, where such directions have assigned to two or more Appellate Assistant Commissioners of Income-tax, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed.

(*5*) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons [1][or of such incomes or classes of income or] in respect of such areas as the Commissioner of Income-tax may direct [3][and, where such directions have assigned to two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed. The Commissioner may, with the previous approval of the Central Board of Revenue, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively.

(*6*) The Central Board of Revenue may, by notification in the official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income [4][or such area] as may be specified in the notification, and thereupon the functions so specified shall cease [5][* * * to be performed in respect of the specified classes of persons or classes of income [6][or area] by the other authorities appointed under sub-sections (*2*) and (*3*).

(*7*) Assistant Commissioners of Income-tax and Income-tax Officers shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax for the area in which they perform their functions, or where they perform functions assigned to them by a Commissioner of Income-tax appointed without reference to area, to that Commissioner.

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 3, for " and of such incomes or classes of income and ", with effect from 1st April, 1938.

[2] Subs. by s. 3, *ibid.*, for " and, where two or more Appellate Assistant Commissioners have been appointed for the same area ", with effect from 1st April, 1939.

[3] Subs. by s. 3, *ibid.*, for " and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area ", with effect from 1st April, 1939.

[4] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 3, for " and for such area ", with effect from 1st April, 1939.

[5] The words " within the specified area " rep. by s. 3, *ibid.*, with effect from 1st April, 1939.

[6] Ins. by s. 3, *ibid.*, with effect from 1st April, 1939.

[1][(*7a*) The Commissioner of Income-tax may transfer any case from one Income-tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income-tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the reissue of any notice already issued by the Income-tax Officer from whom the case is transferred.]

(*8*) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.]

[2][CHAPTER IIA.]

APPELLATE TRIBUNAL.

The Appellate Tribunal.

LXVII/49

[3][**5A.** (*1*) The Central Government shall appoint an Appellate Tribunal consisting of ~~not more than ten~~ as many as it thinks fit persons to exercise the functions conferred on the Appellate Tribunal by this Act.

(*2*) The Appellate Tribunal shall consist of an equal number of judicial members and accountant members as hereinafter defined:

[4][Provided that the Tribunal shall not be deemed to be invalidly constituted merely by reason of a temporary inequality caused by the death, retirement or removal of any member.]

(*3*) A judicial member shall be a person who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge ; and an accountant member shall be a person who has for a period of not less than six years, practised professionally as a Registered Accountant enrolled on the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932 :

Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section ; if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal.

(*4*) The Central Government shall appoint a judicial member of the Tribunal to be president thereof.

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 3.

[2] Ins. by s. 4, *ibid*.

[3] S. 5A was ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 85.

[4] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 5.

For sub-section (6) of section 5A, the following sub-section shall be substituted:-

"(6) Save as hereinafter provided a Bench shall consist of one Judicial Member and one Accountant Member:

Provided that the President or any other member of the Tribunal specially authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Incometax Officer in the case does not exceed Rs.15,000:

Provided further that the President may, for the disposal of any particular case, constitute a special Bench consisting either ~~x~~of two Judicial Members and one Accountant Member or of one Judicial Member and two Accountant Members." LXVII/49.

(*5*) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the president of the Tribunal.

LXVII/49

(*6*) A Bench shall consist of not less than two members of the Tribunal and shall be constituted so as to contain an equal number of judicial members and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one.

(*7*) If the members of a Bench differ in opinion on any point the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the president of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it.

(*8*) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the [1][places] at which the Benches shall hold their sittings.]

CHAPTER III.

TAXABLE INCOME.

Heads of income chargeable to income-tax.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

(*i*) Salaries;
(*ii*) Interest on securities;
[2][(*iii*) Income from property;
(*iv*) Profits and gains of business, profession or vocation;
(*v*) Income from other sources;]
[3][(*vi*) Capital gains.]

Salaries.

7. (*1*) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits [4]* * * in lieu of, or in addition to, any salary or wages, [5][which are due to him from, whether paid or not, or are paid by or on behalf of, the Crown,] a local authority, a company or any other public body or association, or [1][any private employer ; and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received:

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 4, for "place".

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 7, for original cls. (*iii*), (*iv*), (*v*) and (*vi*).

[3] Added by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 5, with effect from 31st March, 1947.

[4] The words "received by him" rep. by Act 7 of 1939, s. 8.

[5] Subs. by s. 8, *ibid.*, for "which are paid by or on behalf of the Crown". The words "the Crown" had been subs. by the A. O. 1937 for "Govt.".

Provided that the tax shall not be payable in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties]:

Provided [2][further] that the tax shall not be payable in respect of any sum [3][deducted from the salary payable by or on behalf of the Crown to any individual, being a sum deducted in accordance with the conditions of his service], for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary:

[4][Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction] ;

[5][*Explanation* [6][*1*].—The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.]

[7][*Explanation 2.*—A payment due to or received by an assessee from an employer or former employer or from a provident or other fund [8]* * * ; is to the extent to which it does not consist of contributions by the assessee or interest on such contributions a profit received in lieu of salary for the purposes of this sub-section, unless the payment is made solely as compensation for loss of employment and not by way of remuneration for past services:

Provided that nothing herein contained shall reder liable to income-tax any payment from a provident fund to which the Provident Funds Act, 1925, XIX of 192 applies, or any payment from a recognised provident fund within the meaning of Chapter IXA if such payment is exempted from payment of income-tax under the provisions of Chapter IXA, or any payment from an approved superannuation fund within the meaning of Chapter IXB, made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.]

(*2*) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 8 for "by or on behalf of any private employer".

[2] Ins. by s. 8, *ibid.*

[3] Subs. by the A. O. 1937 for "deducted under the authority of the Govt., from the salary of any individual".

[4] Ins. by Act 7 of 1939, s. 8.

[5] Added by the Indian Income-tax (Amendment) Act, 1923 (15 of 1923), s. 2.

[6] The Explanation was numbered "1" by Act 7 of 1939, s. 8.

[7] Added by s. 8, *ibid.*

[8] Certain words rep. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 2.

For sub-section (2) of section 7, the following sub-section shall be substituted namely:-

"(2) Any income which would be chargeable under this head if paid in the taxable territories shall be deemed to be so chargeable if paid in the State of Jammu and Kashmir by or on behalf of the Central Government or the Government of any State other than the State of Jammu and Kashmir.

or any servant of His Majesty in any part of India [1][by or on behalf of the Crown] or by a local authority established [2][in the exercise of the powers of [3]* * the Central Government in that behalf.]

8. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the [4][Central Government] or of a [5][State ~~Provincial~~ Government], or on debentures or other securities for money issued by or on behalf of a local authority or a company: Interest on securities.

[6][Provided that no income-tax shall be payable under this section by the assessee in respect of any sum deducted from such interest by way of commission by a banker realizing such interest on behalf of the assessee] [7][or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without taxable territories ~~British India~~, not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in territorial territories ~~British India~~ who may be appointed an agent under section 43 in respect of such interest]:

Provided [6][further] that no income-tax shall be payable on the interest receivable on any security of the [4][Central Government] issued or declared to be income-tax free:

Provided further that the income-tax payable on the interest receivable on any security of a [5][State ~~Provincial~~ Government] issued income-tax free shall be payable by that [5][State ~~Provincial~~ Government].

9. (*1*) The tax shall be payable by an assessee [8][under the head "Income from property"] in respect of the *bonâ fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of [9][any business, profession or vocation carried on by him the profits of which are assessable to tax,] subject to the following allowances, namely:— Property.

(*i*) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value:

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[1] Subs. by the A. O. 1937 for "by Govt.".

[2] Subs. by the A. O. 1937 for "by the G. G. in C."

[3] The words "the Crown Representative or" rep. with effect from 15th August, 1947, by the G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[4] Subs. by the A. O. 1937 for "G. of I."

[5] Subs. by the A. O. 1937 for "L. G.".

[6] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 3.

[7] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 9.

[8] Subs. by Act 7 of 1939, s. 10 for "under the head 'Property'".

[9] Subs. by s. 10, *ibid.*, for "his business".

(*ii*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value ;

(*iii*) the amount of any annual premium paid to insure the property against risk of damage or destruction ;

[1][(*iv*) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge ; where the property is subject to an annual charge not being a capital charge, the amount of such charge ; where the property is subject to a ground rent, the amount of such ground rent ; and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital :

Provided that no allowance shall be made in respect of any interest or annual charge payable without ~~British India~~ taxable territories and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent for the payee in ~~British India~~ taxable territories who may be assessed under section 43 ;]

(*v*) any sums paid on account of land revenue in respect of the property ;

(*vi*) in respect of collection charges, a sum not exceeding the prescribed maximum ;

[2][(*vii*) in respect of vacancies, that part of [3][the annual value] which is proportional to the period during which the property is wholly unoccupied or where the property is let out in parts, that portion of [3][the annual value] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied ;]

Explanation *— see *C. A. L* XI/50 *

As from [illegible]

(2) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year :

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the total income of the owner.

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 10 for the former cl. which had been subs. by the Indian Income-tax (Second Amendment) Act 1933 (18 of 1933), s. 4, for the original cl.

[2] Subs. by s. 10, *ibid.*, for the original cl.

[3] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 5, for "the net annual value after deducting the foregoing allowances".

[4] The proviso rep. by Act 7 of 1939, s. 10.

4. Amendment of section 9, Act XI of 1922.- In section 9 of the said Act, after sub-section (3), the following sub-section shall be added, namely:-

"(4) For the purposes of this section, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate."

[1][(*3*) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income.]

Business.

10. (*1*) The tax shall be payable by an assessee under the head [2][" Profits and gains of business, profession or vocation "] in respect of the profit or gains of any [2][business, profession or vocation] carried on by him.

(*2*) Such profits or gains shall be computed after making the following allowances, namely:—

(*i*) any rent paid for the premises in which such [2][business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the [3][proportional annual value of the part] so used ;

(*ii*) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed;

(*iii*) in respect of capital borrowed for the purposes of the [2][business, profession or vocation,] [4]* * * * the amount of the interest paid:

[5][Provided that no allowance shall be made under this clause in any case, for any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in British India who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm] ;

Explanation:—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause ;

(*iv*) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the [2][business, profession or vocation], the amount of any premium paid ;

(*v*) in respect of current repairs, to such buildings, machinery, plant, or furniture, the amount paid on account thereof ;

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 10.

[2] Subs. by s. 11, *ibid.*, for " business ".

[3] Subs. by s. 11, *ibid.*, for " proportional part ".

[4] The words " where the payment of interest thereon is not in any way dependent on the earning of profits " rep. by s. 11, *ibid.*

[5] Added by s. 11, *ibid.*

(*vi*) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent [1][, where the assets are ships other than ships ordinarily plying on inland waters], to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed. [2][and in any other case to such percentage on the written down value thereof as may in any case or class of cases be prescribed] [3][and where the buildings have been newly erected, or the machinery or plant being new has been installed, after the 31st day of March, 1945, a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(*a*) in the case of buildings the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March [4][1952] (both dates inclusive), to fifteen per cent. of the cost thereof to the assessee ;

(*b*) in the case of other buildings, to ten per cent. of the cost thereof to the assessee ;

(*c*) in the case of machinery or plant, to twenty per cent. of the cost thereof to the assessee] ;

Provided that—

(*a*) the prescribed particulars have been duly furnished ;

(*b*) where full effect cannot be given to any such allowance in any year [5][not being a year which ended prior to the 1st day of April, 1939,] owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, [6][then, subject to the provisions of [7][clause (*b*) of] the proviso to sub-section (*2*) of section 24,] the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance, for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on or succeeding years ; and

(*c*) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886, II of 188 shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be ;

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 11, as amended by the Income-tax Law (Amendment) Act, 1940 (12 of 1940), s. 2.

[2] Added by Act 7 of 1939, s. 11, as amended by Act 12 of 1940, s. 2.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 3, with effect from 4th May, 1946.

[4] Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for " 1948 ".

[5] Ins. by Act 7 of 1939, s. 11.

[6] Ins. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 6.

[7] Subs. by the Repealing and Amending Act, 1947 (2 of 1948), s. 4 for "cl. (*a*) of".

In section 10, after clause (vi), the following clause shall be inserted, namely:-

"(Via) in respect of depreciation of buildings newly erected, or machinery or plant being new which has been installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written down value) equal to the amount admissible under clause (vi) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) in the assessments for each of the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954;

Provided that where in respect of such machinery or plant the assessee establishes that the market value of similar machinery or plant on the 31st day of March 1953, is lower than the original cost, then, subject to the provisions of clause (vi), there shall be made in the assessment for the year commencing next after that date a further allowance (which shall be deductible in determining the written down value) of an amount by which the written down value of the machinery or plant as on that date (without deduction of the initial depreciation admissible in the first year) would have exceeded the corresponding written down value thereof as on the same date if the market price of the machinery or plant had been taken as the actual cost to the assessee";

[1][(*vii*) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold or its scrap value:

Provided that such amount is actually written off in the books of the assessee:

Provided further that where the amount for which any such building, machinery or plant is sold exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place:

whether during
the continuance
of the business
or after the
cessation of
thereof
LXVII/49

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the difference between the written down value and the scrap value exceeds the amount of such moneys:

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such moneys exceeds the difference between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received ;

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub-section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation ;]

[2][[3][(*viii*)] in respect of animals which have been used for the purposes of the [4][business, profession or vocation] otherwise than as stock in trade and have died or become permanently useless, for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcases or animals] ;

[3][(*ix*)] any sums paid on account of land-revenue, local rates or

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[1] Subs., with effect from 4th May, 1946, by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 3, for the former cl. which had been subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 11, for the original cl.

[2] Ins. as cl. (*viia*) by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 2, with effect from 1st April, 1928.

[3] Cls. (*viia*), (*viii*) and (*viiia*) were renumbered (*viii*), (*ix*) and (*x*) respectively by Act 7 of 1939, s. 11.

[4] Subs. by s. 11, *ibid.*, for "business".

municipal taxes in respect of such part of the premises as is used for the purposes of the [1][business, profession or vocation] ;

[2][[3][(*x*)] any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission ;

[illegible]

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(*a*) the pay of the employee and the conditions of his service ;

(*b*) the profits of the [1][business, profession or vocation] for the year in question ; and

(*c*) the general practice in similar [4][business, professions or vocations];]

[5][(*xi*) when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee:

Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year] ;

[6][(*xii*) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business;

(*xiii*) any sum paid to a scientific research association having as its objects the undertaking of scientific research related to the class of business carried on and any sum paid to a university, college or other institution to be used for such scientific research:

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority;

(*xiv*) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one-fifth of such expenditure:

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[1] Subs. by s. 11 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), for "business".

[2] Ins. as cl. (*viiia*) by the Indian Income-tax (Third Amendment) Act, 1930 (23 of 1930), s. 2.

[3] Re-numbered by Act 7 of 1939, s. 11.

[4] Subs. by s. 11, *ibid.*, for "businesses".

[5] Ins. by s. 11, *ibid.*

[6] Cls. (*xii*) to (*xiv*) ins. by s. 3 of the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), (with effect from 4th May, 1946).

Provided that no allowance shall be made for any expenditure incurred more than three years before the commencement of the business:

Provided further that—

(*a*) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—

(*i*) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and

(*ii*) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference:

(*b*) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs ;

(*c*) where the proceeds of the sale *plus* the total amount of the allowances made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a receipt of the business accruing at the time of the sale ;

(*d*) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset no deduction shall be allowed under clause (*vi*) or clause (*vii*) for the same previous year in respect of that asset ;

(*e*) where an asset is used in the business after it ceases to be used for scientific research related to that business, and a claim for an allowance under clause (*vi*) or clause (*vii*) is made in respect of that asset, the actual cost to the assessee of the asset shall be treated as reduced by the amount of any deductions allowed under this clause ;

(*f*) clause (*b*) of the proviso to clause (*vi*) shall apply in relation to deductions allowable under this clause as it applies in relation to deductions allowable in respect of depreciation ;

(*g*) if any question arises under clause (*xii*), clause (*xiii*) or this clause as to whether, and if so to what extent, any activity constitutes or constituted or any asset is or was being used for scientific research ; the Central Board of Revenue shall refer the question to the prescribed authority, whose decision shall be final ;

Explanation.—In clause (*xii*), clause (*xiii*) and this clause—

(*i*) " scientific research " means any activities in the fields of natural or applied science for the extension of knowledge ;

(*ii*) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid, include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research ;

(*iii*) references to scientific research related to a business or class of business include—

(*a*) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class ;

(*b*) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, businesses of that class] ;

[1][(*xv*)] any expenditure [2][(not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation]:

[3]* * * * *

[4][(*3*) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (*iv*), clause (*v*), clause (*vi*) or clause (*vii*) of sub-section (*2*) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used.

(*4*) Nothing in clause (*ix*) or [5][clause (*xv*)] of sub-section (*2*) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains ; and nothing in [5][clause (*xv*)] of sub-section (*2*) shall be deemed to authorise—

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[1] Cl. (*ix*) which had been re-numbered (*xii*) by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939) was re-numbered (*xv*) by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 3, with effect from 4th May, 1946.

[2] Subs. by Act 7 of 1939, s. 11, for " (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains ".

[3] The proviso ins. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 2, with effect from 1st April, 1928, was rep. by s. 11 of Act 7 of 1939.

[4] Sub-sections (*3*), (*4*), (*5*), (*6*) and (*7*) subs. by s. 11 of Act 7 of 1939, for the original sub-section (*3*).

[5] Subs. by the Repealing and Amending Act, 1947 (2 of 1948), s. 4, for "cl. (*xii*)".

In section 10, to clause (a) of sub-section (5), the following proviso shall be added, namely:-

"Provided that where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case." LXVII/49.

II of 188

(a) any allowance in respect of a payment which is chargeable under the head 'Salaries' if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18 ; or

(b) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm ; or

(c) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head 'Salaries'.

(5) In sub-section (2), 'paid' means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section ; 'plant' includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation ; and 'written down value' means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee ;

[1][(b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886 was in force.]:

[2][Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day February, 1946, 'written down value' means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition.]

Provided [2][further] that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the assessee referred to in [3][clauses (a) and (b)] shall be the actual cost to the person succeeded in the business, profession or vocation:

[4]* * * * *

(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 6, for the former cls. (b) and (c).

[2] Ins. by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 3, with effect from 4th May, 1946.

[3] Subs. by Act 23 of 1941, s. 6, for "clauses (a), (b) and (c)".

[4] A proviso was rep. by s. 6, *ibid*.

services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly.

(*7*) Notwithstanding anything to the contrary contained in sections 8, 9, 10, 12 or 18 the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act.]

11. [*Professional earnings.*] *Rep. by the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), s. 12.*

Other sources. **12.** (*1*) The tax shall be payable by an assessee under the head [1][" Income from other sources "] in respect of income, profits and gains of every kind [2][which may be included in his total income] (if not included under any of the preceding heads).

(*2*) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains [3][provided that no allowance shall be made on account of—

(*a*) any personal expenses of the assessee, or

(*b*) any interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or

(*c*) any payment which is chargeable under the head " Salaries " if it is payable without ~~British India~~ and tax has not been paid thereon nor deducted therefrom under section 18.]

[4][(*3*) Where an assessee lets on his machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*, (*v*), (*vi*) and (*vii*) of sub-section (*2*) of section 10.]

[5][(*4*) Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*), [6][(*v*), (*vi*) and (*vii*)] of sub-section (*2*) of section 10 in respect of such buildings.]

Managing Agency Commission. [7][**12A.** Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement.]

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 13, for " Other sources ".

[2] Subs. by s. 13, *ibid.*, for " and from every source to which this Act applies ".

[3] Subs. by s. 13, *ibid.*, for " provided that no allowance shall be made on account of any personal expenses of the assessee ".

[4] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 13.

[5] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 7.

[6] Subs. by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 4, for " (*v*) and (*vi*) ", with effect from 4th May, 1946.

[7] Ins. by Act 7 of 1939, s. 14.

Capital gains.

[1][**12B.** (*1*) The tax shall be payable by an assessee under the head "Capital gains" in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset effected after the 31st day of March, 1946; and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange or transfer took place:

Provided that where the amount of capital gains in the previous year does not exceed fifteen thousand rupees, the tax shall not be payable by the assessee and such amount shall not be included in his total income:

Provided further that the tax shall not be payable by an assessee in respect of any profits or gains arising from the sale, exchange or transfer of a capital asset, being property the income of which is chargeable under section 9 and which has been possessed by the assessee or a parent of his for not less than seven years before the date on which the sale, exchange or transfer took place; and the amount of such profits or gains shall not be included in his total income:

Provided further that any transfer of capital assets by reason of the compulsory acquisition thereof under any law for the time being in force relating to the compulsory acquisition of property for public purposes or any distribution of capital assets on the total or partial partition of a Hindu undivided family, or on the dissolution of a firm or other association of persons, or on the liquidation of a company, or under a deed of gift, bequest, will or transfer on irrevocable trust shall not, for the purposes of this section, be treated as sale, exchange or transfer of the capital assets:

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or transfer within the meaning of this section where the subsidiary company is resident in British India and is registered under the Indian Companies Act, 1913, VII of 1913. so however that for the purposes of clause (*vi*) or clause (*vii*) of sub-section (2) of section 10, the cost or the written down value, as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

(*2*) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange or transfer of the capital asset is made, namely:—

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[1] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 6, with effect from 31st March, 1947.

(*i*) expenditure incurred solely in connection with such sale, exchange or transfer:

(*ii*) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12:

Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange or transfer took place:

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of that section:

or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-sec (3)
XLVIII/48

Provided further that where the capital asset became the property of the assessee before the 1st day of January 1939, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of section 10:

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange or transfer, any option or other money received and retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset.

(3) Where any capital asset became the property of the assessee [1][by succession, inheritance or devolution or] under any of the circumstances referred to in the third proviso to sub-section (1), its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly; and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof.

(4) Notwithstanding anything contained in sub-section (1), where a

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[1] Ins. by the Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947), s. 2, with effect from 1st April, 1947.

(b) To sub-section (3) the following proviso shall be added namely:-

"Provided that where the capital asset became the property of the assessee—

(i) before the 1st day of April 1947, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the figt or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January 1939, where the third proviso to sub-section (2) applies;

(ii) on or after the 1st day of April 1947, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition."

capital gain arises from the sale, exchange or transfer of a capital asset which immediately before the date on which the sale, exchange or transfer took place was being used by the assessee for the purposes of his business, profession or vocation, or which in the two years immediately preceding that date was being used by him or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new capital asset for the same purposes of his business, profession or vocation or, as the case may be, for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange or transfer took place, it shall, if the assessee so elects in writing before the assessment is made be dealt with in accordance with the following provisions of this sub-section, that is to say,—

(*a*) if the amount of the capital gain is greater than the cost of the new asset,—

(*i*) the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, and

(*ii*) for the purposes of computing in respect of the new asset any allowance under clause (*vi*) or clause (*vii*) of sub-section (*2*) of section 10 or the amount of any capital gain arising from its sale, exchange or transfer, the cost or the written down value, as the case may be, shall be *nil*, or

(*b*) if the amount of the capital gain is equal to or less than the cost of the new asset,—

(*i*) the capital gain shall not be charged under this section, and

(*ii*) for the purposes of computing in respect of the new asset any allowance under the said clause (*vi*) or any allowance or adjustment under the said clause (*vii*) or the amount of any capital gain arising from its sale, exchange or transfer the cost or the written down value, as the case may be, shall be reduced by the amount of the capital gain:

Provided that where in respect of the purchase of a new capital asset consisting of plant or machinery the assessee satisfies the Income-tax Officer that despite the exercise of due diligence it has not been possible to make the purchase within the period specified in this sub-section, the Income-tax Officer may, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, extend the said period to such date as he considers reasonable.]

Method of accounting.

13. Income, profits and gains shall be computed, for the purposes of section 10, [1]* and 12, in accordance with the method of accounting regularly employed by the assessee:

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[1] The figures "11" rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 15.

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deducted therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

Exemptions of a general nature.

14. (*1*) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family [1][where such sum has been paid out of the income of the family or in the case of an impartible the estate where such sum has been paid out of the income of the holder of the estate belonging to the family].

[2][(*2*) The tax shall not be payable by an assessee—

(*a*) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (*b*) of sub-section (*1*) of section 16 on which the tax has already been paid by the firm ; or

(*b*) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association ;] [3][or

(*c*) in respect of any income, profits or gains accruing or arising to him within an Indian State, unless such income, profits or gains are received or deemed to be received in or are brought into British India in the previous year by or on behalf of the assessee, or are assessable under [4][section 12B or] section 42.]

Exemption in the case of life insurances.

15. (*1*) The tax shall not be payable [5][in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the provident Funds Act [6][1925], applies * * * *[7]. XIX of 1925.

(*2*) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (*1*) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

[8][(*2a*) Nothing in sub-section (*1*) or sub-section (*2*) shall apply to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is in excess of ten per cent. of the actual capital sum assured ; and in calculating any such capital sum no account shall be taken of the value of any premiums agreed to be returned or of any

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[1] Added by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 3.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 16, for the former sub-section.

[3] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 8.

[4] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 7, with effect from 31st March 1947.

[5] Subs. by Act 7 of 1939, s. 17, for the original words.

[6] Subs. by s. 17, *ibid.*, for "(1897)".

[7] Certain words were rep. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 5.

[8] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 4.

benefit by way of bonus or otherwise which is to be or may be received either before or after death either by the person paying the premium or by any other person and which is not the sum actually assured.]

(*3*) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the [1][second proviso] to sub-section (*1*) of section 7 [2][and any sums exempted under subsection (*1*) of section 58F] exceed [3][in the case of an individual, one-sixth of the total income of the assessee, or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee, or twelve thousand rupees, whichever is less].

Exemption of portion of earned income.

[4][**15A.** The tax shall not be payable by an assessee in respect of such portion, if any, of the earned income included in his total income as is directed by the annual ~~Act of the~~ Central Act ~~Legislature~~ fixing the rate or rates of tax for any year to be deducted in making an assessment for that year, and for the purposes of determining the rates at which income-tax (but not super-tax) is payable by the assessee for that year his total income shall be deemed to be the total income reduced by the said portion.]

Exemption on account of donations for charitable purposes.

on or after the first day of April 1948 LV/48

[5][**15B.** (*1*) The tax shall not be payable by an assessee in respect of any sums paid by him [6][on or after the first day of April, 1948] as donations to any institution or fund which is established in ~~British India~~ the taxable territories for a charitable purpose and is approved by the Central Government for the purposes of this section:

Provided that the total of the sums so paid is not less than two hundred and fifty rupees:

Provided further that in the case of a company this exemption shall apply only in respect of the income-tax, and not in respect of any super-tax, payable by it.

Explanation.—In this section, 'charitable purpose' includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

(2) The aggregate of any sums exempted under this section shall not exceed—

(*a*) one-twentieth in the case of a company, and one-tenth in any other case, of the assessee's total income as reduced by any portion thereof exempt from tax under any other provision of this Act, or

(*b*) two hundred and fifty thousand rupees, whichever is less ·

To sub-section (2) of section 15B of Act XI of 1922, the following proviso shall be added:-

"Provided that where any sum paid during the previous year as donation to the fund know as the Gandhi National Memorial Fund is in excess of the limits specified in this Section, the exemption granted under this section shall apply to the whole of that sum."

LXVII/49.

(*3*) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this sec

Exemptions and exclusions determining the total income.

16. [1][(*1*) In computing the total income of an assessee—

(*a*) any sums exempted under the second proviso to sub-section (*1*) of section 7, the second and third provisos to section 8, sub-section (*2*) of [2][section 14, section 15 ~~and~~ section 15B] and section 15C shall be included [3][and any sum exempted under section 15A shall also be included except for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee to whom the exemption is given] ;

(*b*) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year ;

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 24 ;

(*c*) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939 from assets remaining the property of the settler or disponer, shall be deemed to be income of the settler or disponer, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor:

VII of 19

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponer or transferor, or in any way gives the settlor, disponer or transferor a right to reassume power directly or indirectly over the income or assets:

Provided further that the expression 'settlement or disposition' shall for the purposes of this clause include any disposition, trust, covenant, agreement, or arrangement, and the expression 'settlor or disponer' in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made:

Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revoc-

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[1] Subs. by s. 18 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), for the former sub-sections (*1*) and (*2*).

[2] Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for "section 14 and section 15".

[3] Added by the Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945), (with effect from 28th April, 1945, for indefinite period).

Provided that the Central Government may, by notification in the official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking.

(3) The profits or gains of an industrial undertaking to which this section applies shall be computed in accordance with the provisions of section 10.

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking as is attributable to that part of the profits or gains on which the tax is not payable under this sectio

(5) Nothing in this section shall affect the application of section 23A in relation to the profits or gains of an industrial undertaking to which this section applies, and for the purposes of that section, the expression 'assessable income'shall be deemed to include the profits or gains in respect of which the tax is not payable under this section.

(6) The provisions of this section shall apply to the assessments for the years commencing on the 1st day of April 1949 and endi on the 31st day of March 1954."

VII of 1939.

After section 15B of Act XI of 1922, the following section shall be inserted, namely:-

"15C. Exemption from tax of newly established industrial undertakings.— (1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking to which this section applies as do not exceed six per cent per annum on the capital employed in the undertaking, computed in accordance with such rule as may be made in this behalf by the Central Board of Revenue.

(2) This section applies to any industrial undertaking which—

(i) is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building machinery or plant used in a business which was being carried on before the 1st day of April, 1948;

(ii) has begun or begins to manufacture or produce articles in any part of the taxable territories at any time within a period of three years from the 1st day of April 1948, or such further period as the Central Govt., may, by notification in the official Gazette, specify with reference to any particular industrial undertaking;

(iii) employs more than fifty persons, and

(iv) involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not directly generated by human agency:

II of 1939.

able for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponer derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him.

(2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be income of the previous year in which it is paid, credited or distributed or deeemed to have been paid, credited or distributed to him, [1][and shall be increased to such amount as would, if income-tax (but not super-tax) at the rate applicable to the total income [2][of the company (without taking into account any rebate allowed or additional income-tax charged)] for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed, were deducted therefrom, be equal to the amount of the dividend:]

Provided that when any portion of the profits and gains of the company out of which such dividend has been paid, credited or distributed or deemed to have been paid, credited or distributed was not liable to income-tax in the hands of the company, [3][the increase to be made] under this section shall be calculated upon only such proportion of the dividend as the amount of the profits and gains of the company liable to income-tax bears to the total profits and gains of the company.]

[4][(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(*a*) so much of the income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from the membership of the wife in a firm of which her husband is a partner ;

(*ii*) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ;

(*iii*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ; or

(*iv*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual [5][otherwise than for adequate consideration] ; and

(*b*) so much of the income of any [6][person or association of persons] [7]* * * as arises from assets transferred, [8][otherwise than for

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 9, for the former words.

[2] Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for "of a company".

[3] Subs. by Act 23 of 1941, s. 9, for "the income-tax to be added".

[4] Added by the Indian Income-tax (Amendment) Act, 1937 (4 of 1937), s. 2. This Amendment does not have effect in respect of any income chargeable to income-tax for any year ending before the 1st day of April, 1937—*see* s. 5, *ibid.*

[5] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 18.

[6] Subs. by s. 18, *ibid.*, for "association of Individuals".

[7] The words "consisting of such individual and his wife" rep. by s. 18, *ibid.*

[8] Subs. by s. 18, *ibid.*, for "to the association".

Citizen of India or a British subject as defined in sec. 1 of the British Nationality Act, 1948

adequate consideration to the person or association] by such individual [1][for the benefit of his wife or a minor child or both].]

Determination of tax payable in certain special cases.

[2][**17.** (*1*) Where a person is not resident in British India, and is ~~a British subject as defined in [3][section 27] of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, [4][or a native of a Tribal Area~~,] the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount bearing to the total amount of the tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income ; and in the case of any other non-resident person, the income-tax payable by him or on his behalf on his total income shall be at the maximum rate and the super-tax payable thereon shall be an amount bearing to the total amount of super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income.

4 and 5 Geo. 5, c. 17.

(*2*) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income.]

[5][(*3*) Where there is included in the total income of any assessee any income exempted from tax under clause (*c*) of sub-section (*2*) of section 14 [6][or under section 15B] the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income.

or under section 15C

(*4*) Where any income exempted from tax under clause (*c*) of sub-section (*2*) of section 14 which has been taken into account under sub-section (*2*) or sub-section (*3*) of this section as part of the total income of an assessee for the purpose of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in British India by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 18.

[2] Subs. by s. 19 of Act 17 of 1939, for the original section.

[3] Subs. by the Repealing and Amending Act, 1939 (34 of 1939), s. 2 and Sch. I, for "section 17".

[4] Ins. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 10.

[5] Added by s. 10, *ibid*.

[6] Ins. by the Indian Finance Act, 1948 (20 of 1948), s. 8.

(*a*) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received ~~in British India~~ the taxable territories had such reduced income been his total income the same proportion as his total income bears to such reduced income, or

(*b*) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the income so brought into or received ~~in British India~~ the taxable territories, had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in ~~British India~~ the taxable territories

whichever is the greater].

[1][(*5*) Where the amount of the total income of any assessee is deemed to be the total income reduced under the provisions of section 15A by an allowance for earned income, the expression 'total income' in this section shall, for the purpose of determining the amount of income-tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced.]

[2][(*6*) Where the total income of an assessee, not being a company, includes any income chargeable under the head "Capital gains", the tax, including super-tax, payable by him on his total income shall be—

(*i*) income-tax and super-tax payable on his total income as reduced by the amount of such inclusion, had such reduced income been his total income, *plus*

(*ii*) income-tax on the whole amount of such inclusion at the following rates, namely:—

where such amount—	Rate.
exceeds Rs. 15,000 but does not exceed Rs. 50,000	One anna in the rupee,
exceeds Rs. 50,000 but does not exceed Rs. 2,00,000	Two annas in the rupee,
exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000	Three annas in the rupee,
exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Four annas in the rupee,
exceeds Rs. 10,00,000	Five annas in the rupee:

Provided that where owing to the fact that the amount of such inclusion has exceeded a certain limit, income-tax thereon is payable or is payable at a higher rate, the amount of income-tax so payable shall be reduced so as not to exceed—

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[1] Added by the Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945), s. 5 (with effect from 28th April, 1945, for indefinite period).

[2] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947, (22 of 1947), s. 8, with effect from 31st March, 1947.

(*a*) the amount which would have been payable if the amount of such inclusion had not exceeded that limit, *plus*

(*b*) one-half of the amount by which the amount of such inclusion exceeds that limit.

(*7*) Where the total income of a company includes any income chargeable under the head "Capital gains", the super-tax payable by the company in any year shall be reduced by an amount computed on that part of its total income which consists of such inclusion at the rate of super-tax (excluding the rate of additional super-tax, if any) specified in the case of a company by the annual Act of the Central Legislature fixing the rate or rates of tax for that year.]

CHAPTER IV.

DEDUCTIONS AND ASSESSMENT.

Payment by deduction at source.

18. [1]* * * *

(*2*) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax [2][and super-tax] on the amount payable [3][at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head]:

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

[4][(*2a*) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or [5][on behalf of the Crown], and the value in rupees of such income shall be calculated at the prescribed rate of exchange.]

[6][(*2b*) Any person responsible for paying any income chargeable under the head "Salaries" to a person not resident in ~~British India~~ the taxable territories shall at the time of payment deduct income-tax at the maximum rate and also super-tax at the rate or rates applicable to the estimated income of the assessee under this head.]

(*3*) The person responsible for paying any income chargeable under the head "Interest on Securities" shall, [1][unless otherwise prescribed in the case of any security of the [2][Central Government]] at the time of payment, deduct income-tax [1][but not super-tax] on the amount of the interest payable at the maximum rate:

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[1] Sub-section (*1*) was rep. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20, for "but not super-tax" which had been ins. by Act 18 of 1933, s. 7.

[3] Subs. by Act 7 of 1939, s. 20, for "at the rate applicable to the estimated income of the assessee under this head".

[4] Added by the Indian Income-tax (Second Amendment) Act, 1925 (16 of 1925), s. 2.

[5] Subs. by the A. O. 1937 for "on behalf of Govt.".

[6] Ins. by Act 7 of 1939, s. 20.

[1][Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income [3][or the total world income] of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income [4][referred to in this sub-section or in sub-section (*2b*) as the case may be,] to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be.]

[3][(*3a*) Any person responsible for paying to a person not resident in British India any interest not being 'Interest on Securities', or any other sum chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay income-tax thereon as an agent, deduct income-tax at the maximum rate:.]

Citizen of India or a British subject as defined (in sec. 6 of the British Nationality Act 1948

[5][Provided that where the person so payable is a ~~British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914~~ 4 & 5 Geo. 5. c. 17. ~~or a subject of a State in India or Burma;~~ and the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total world income of such person will be less than the minimum liable to income-tax or that his total income will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income referred to in this sub-section shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be;

Provided further that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which the person responsible for making the payment is deemed under the first proviso to section 43 not to be an agent of the payee.]

[6][(*3b*)] Where the Income-tax Officer has reason to believe that the [7][total world income] of any person residing out of the territories ~~British~~ India to whom any interest not being "Interest on Securities" [8][or any other sum chargeable under this Act] is payable, will in any year exceed the maximum amount

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[1] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7.

[2] Subs. by the A. O. 1937 for "G. of I.".

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20.

[4] Subs. by Act 7 of 1939, s. 20, for "herein referred to".

[5] Added by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 6.

[6] Sub sections (*3a*), (*3b*), (*3c*) and (*3d*) which had been ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7, were re-numbered (*3b*), (*3c*), (*3d*) and (*3e*) respectively by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20.

[7] Subs. by Act 7 of 1939, s. 20, for "total income".

[8] Ins. by s. 20, *ibid*.

which is not chargeable with super-tax under the law for the time being in force, he may, by order in writing, require, the person responsible for [1][making such payments] to such person to deduct at the time of payment [2]* * * super-tax at the rates determined by the Income-tax Officer to be applicable to the [3][total world income] of such person in that year.

[4][(*3c*)] Where the person responsible for paying any interest not being "Interest on Securities" [5][or any other sum chargeable under this Act] to any person [6][makes to that person in any year payments] exceeding in the aggregate the maximum amount which is not chargeable with super-tax under the law for the time being in force, the person responsible for [1][making such payments], shall; if he has not reason to believe that the recipient is resident in ~~British India,~~ the taxable territories and no order under [7][sub-section (*3b*)] has been received in respect of such recipient, deduct at the time of payment [8]* * * * * super-tax on the amount by which [9][the total amount of such payments] exceeds the maximum amount not chargeable with super-tax at the rate applicable to such excess.

[4][(*3d*)] Where the income-tax Officer has reason to believe that any person, who is a shareholder in a company, is resident out of ~~British India~~ the taxable territories and that the [3][total world income] of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the shareholder in that year super-tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the shareholder in that year.

[4][(*3e*)] If in any year the amount of any dividend or the aggregate amount of any dividends paid to any shareholder [10][by an Indian company or by a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from such dividends] [11][(increased in accordance with the provisions of sub-section (*2*) of section (16)] exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20, for "paying such interest".

[2] The words "income-tax and" rep. by s. 20, *ibid.*

[3] Subs. by s. 20, *ibid.*, for "total income".

[4] Sub-sections (*3a*), (*3b*), (*3c*) and (*3d*) which had been ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7, were renumbered (*3b*), (*3c*), (*3d*) and (*3e*) respectively by the Indian Income-tax (Amendment) Act, 1933 (7 of 1933), s. 20.

[5] Ins. by Act 7 of 1939, s. 20.

[6] Subs. by s. 20, *ibid.*, for "pays to that person in any year an amount of such interest".

[7] Subs. by s. 20, *ibid.*, for "sub-section (*3a*)".

[8] The words "income-tax on the amount of such interest at the rate appropriate to such total, and" rep. by s. 20, *ibid.*

[9] Subs. by s. 20, *ibid.*, for "such total".

[10] subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for "by a company".

[11] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 11, for "(together with the amount of any income-tax payable by the company in respect thereof)".

officer of the company has no reason to believe that the shareholder is resident in ~~British India~~ The taxable territories, and no order under [1][sub-section (*3d*)] has been received in respect of such shareholder by the principal officer from the Income-tax Officer, the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends [2][(increased as aforesaid)] constituted, the whole total income of the shareholder.]

(*4*) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(*5*) Any deduction made in accordance with the provisions of this section [3][and any sum by which a dividend has been increased under sub-section (*2*) of section 16] shall be treated as a payment of income-tax [4][or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security [5][or of the shareholder], as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund:

[6][Provided further that where such person or owner is a person whose income is included under the provisions of [7][clause (*c*) of sub-section (*1*) or sub-section (*3*) of section 16, section 44D or section 44E] in the total income of another person [8][such other person] shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year.]

(*6*) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the [9][Central Government] or as the [10][Central Board of Revenue] directs.

(*7*) If any such person does not deduct [11][or after deducting fails to pay] the tax as required by [12][or under] this section, [13][he, and in the cases specified in sub-sections (*3d*) and (*3e*) the company of which he is the principal officer] shall, without prejudice to any other consequences which [1][he or it] may incur be deemed to be [2][an assessee] in default in respect of the tax:

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20, for "sub-section (*3c*)".

[2] Subs. by Act 23 of 1941, s. 11, for "(together with the amount of such income-tax as aforesaid)".

[3] Ins. by Act 7 of 1939, s. 20.

[4] Ins. by Act 18 of 1933, s. 7.

[5] Ins. by Act 7 of 1939, s. 20.

[6] Added by the Indian Income-tax (Amendment) Act, 1937 (4 of 1937), s. 3.

[7] Subs. by Act 7 of 1939, s. 20, for "sub-section (*3*) of section 16".

[8] Subs. by s. 20, *ibid.*, for "that person".

[9] Subs. by the A. O. 1937 for "G. of I.".

[10] Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch., for "Board of Inland Revenue".

[11] Subs. by Act 7 of 1939, s. 20, for "and pay".

[12] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7.

[13] Subs. by Act 7 of 1939, s. 20, for "he".

[3][Provided that the Income-tax Officer shall not make a direction under sub-section (*1*) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax.]

(*8*) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(*9*) Every person deducting income-tax, [3][or super-tax] in accordance with the provisions of [4][sub-section (*3*), (*3a*), (*3b*), (*3c*), [5][(*3d*) or (*3e*)]], shall [6][at the time of payment of the sum from which tax has been deducted], furnish to the person to whom [7][such payment is made] a certificate to the effect that income-tax [3][or super-tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

Advance payment of tax.

[8][**18A.** (*1*) (*a*) In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, the Income-tax Officer may, on or after the 1st day of April in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Central Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively, an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed, if that total income exceeded six thousand rupees. Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income or, in cases where under the provisions of sub-section (*1*) of section 17 both income-tax and super-tax or super-tax are chargeable with reference to the total world income, shall bear to the total amount of income-tax and super-tax which would have been payable on his total world income of the said previous year had it been his total income the same proportion as the amount of such inclusions bears to his total world income:

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 20, for "he".

[2] Subs. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 7, for "personally".

[3] Ins. *ibid.*

[4] Subs. by s. 7, *ibid.*, for "sub-section (*3*)".

[5] Subs. by Act 7 of 1939, s. 20, for "or (*3D*)".

[6] Subs. by s. 20, *ibid.*, for "at the time of payment of interest or dividends". The words "or dividends" had been ins. by the Repealing and Amending Act, 1935 (12 of 1935), s. 2 and Sch. I.

[7] Subs. by Act 12 of 1935, s. 2 and Sch. I, for "the interest is paid".

[8] Sub-sections (*1*) to (*11*) of s. 18A were ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 5.

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of September, the 15th day of December and the 15th day of March, respectively:

Provided further that, if the assessee is a partner of a registered firm and an assessment of the firm, has been completed for a previous year later than that for which the assessee's last assessment has been completed, his share in the profits of the firm shall for the purposes of this sub-section, be included in his total income on the basis of the latest assessment of the firm:

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of February of the financial year an assessment of the assessee or of the registered firm of which he is a partner is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order, but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded.

(*b*) If the notice of demand issued under section 29 in pursuance of the order under clause (*a*) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March if the notice is served after the 15th day of December.

(*2*) If any assessee who is required to pay tax by an order under sub-section (*1*) estimates at any time before the last instalment is due that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (*1*) on that part of his income for such period, and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in sub-section (*1*) (*a*) as have not expired or in one sum if only the last of such dates has not expired:

Provided that the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (*1*) (*a*) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(*3*) Any person who has not hitherto been assessed shall before the 15th day of March in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following is likely to exceed six thousand rupees, send to the Income-tax Officer an estimate of the tax payable by him on that part of his income to which the provisions of section 18 do not apply of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (*2*).

(*4*) Where part of the income to which sub.section (*1*), (*2*) or (*3*) applies consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred:

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six percent. simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

(*5*) The Central Government shall pay on any amount paid under this section simple interest at two per cent. per annum from the date of payment to the date of the assessment (hereinafter called the 'regular assessment') made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable:

to the date of the
provisional
assessment made
under sec. 23 B
or if such
assessment has
been made

Provided that on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made.

(*6*) Where in any year an assessee has paid tax under sub-section (*2*) or sub-section (*3*) on the basis of his own estimate, and the tax so paid is less than eighty per cent. of the tax determined on the basis of the regular assessment, so far as such tax relates to income to which the provisions of section 18 do not apply and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of six per cent. per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assess-

To sub-section (6) of Section 18A, the following shall be inserted as first proviso:-

"Provided that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision upto the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which tax as so assessed (in so far as it relates to income to which the provisions of section 18 do not apply) falls short of the said eighty percent."

ment shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent.:

Provided also that, where, as a result of an appeal under section 31 or section 33 or of a revision under section 33A or of a reference to the High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable:

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year.

(*7*) Where on making the regular assessment, the Income-tax Officer finds that any assessee has—

(*a*) under sub-section (*2*) or sub-section (*3*) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or

(*b*) under sub-section (*4*) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at six per cent. per annum, in the case referred to in clause (*a*) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (*b*) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred:

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.

(*8*) Where, on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (*6*) shall be added to the tax as determined on the basis of the regular assessment.

(*9*) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

(*a*) has furnished under sub-section (*2*) or sub-section (*3*) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or

(*b*) has without reasonable cause failed to comply with the provisions of sub-section (*3*), the assessee shall be deemed, in the case referred to in clause (*a*), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (*b*), to have failed to furnish the return of his total income ; and the provisions of section 28, so far as may be, shall apply accordingly:

Provided that, the amount of penalty leviable shall, in the case referred to in clause (*a*), be a sum not exceeding one-and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub-section (*1*) or eighty per cent. of the tax determined on the basis of the regular assessment as modified in the manner provided in sub-section (*6*), whichever is the less, and, in the case referred to in clause (*b*), one-and-a-half times the said eighty per cent.

(*10*) (*a*) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (*1*) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (*2*) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

(*b*) If any assessee has sent under sub-section (*2*) or sub-section (*3*) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (*1*), he shall be deemed to be an assessee in default in respect of such instalment or instalments:

Provided that, the assessee shall not, under clause (*a*) or (*b*), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (*4*) until after the date communicated by him to the Income-tax Officer under that sub-section.

(*11*) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.]

[1][(*12*) Any income chargeable under the head "Capital gains" shall not be taken into account for any of the purposes of this section.]

Payment in other cases.

[2][**19.** In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance

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[1] Sub-section (*12*) was ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 9, with effect from 31st March, 1947.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 21, for the original section as amended by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 8, and the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I.

with the provisions of section 18, income-tax shall be payable by the assessee direct.]

Supply of information regarding dividends.

[1][**19A.** The principal officer of every company [2][which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in British India] shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder.]

Certificate by company to shareholders receiving dividends.

20. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

Supply of information regarding interest.

[3][**20A.** The person responsible for paying any interest not being "Interest on Securities" shall on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than [4][four hundred] rupees as may be prescribed in this behalf, together with the amount paid to each such person.]

Annual return.

21. The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form [5][and verified in the prescribed manner], a return in writing showing—

(*a*) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received [5][or to whom was due] during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed ;

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[1] S. 19A was ins. by the Indian Income-tax (Amendment) Act, 1926 (24 of 1926), s. 2, with effect from 1st April, 1926.

[2] Ins. by the Indian Finance Act, 1948 (20 of 1948), s. 8.

[3] S. 20A was ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 9.

[4] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 22, for "one thousand".

[5] Ins. by s. 23, *ibid.*

(*b*) the amount of the income so received [1][or so due] by each such person, and the time or times at which the same was paid [2][or due, as the case may be];

(*c*) the amount deducted in respect of income-tax [1][and super-tax] from the income of each such person.

Return of income.

22. [3][(*1*) The Income-tax Officer shall, on or before the 1st day of May in each year, give notice, by publication in the press and by publication in the prescribed manner, requiring every person whose total income during the previous year exceeded the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income and total world income during that year:

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.]

(*2*) In the case of any person [4]* * * * whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer [5][may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income [6][and total world income] during the previous year:

[7][Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return.]

(*3*) If any person has not furnished a return within the time allowed by or under sub-section (*1*) or sub-section (*2*), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made [8]* * * *

(*4*) The Income-tax Officer may serve [9]* * * * on any person [10][who has made a return under sub-section (*1*) or] upon whom a notice has been served under sub-section (*2*) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require:

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 23.
[2] Added *ibid.*
[3] Subs. by s. 24, *ibid.*, for the original sub-section.
[4] The words "other than a company" rep. by s. 24, *ibid.*
[5] Subs. by s. 24, *ibid.*, for "shall serve".
[6] Ins. *ibid.*
[7] Added *ibid.*
[8] The words "and any return so made shall be deemed to be a return made in due time under this section" rep. *ibid.*
[9] The words "on the principal officer of any company or" rep. *ibid.*
[10] Ins *ibid.*

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

[1][(5) The prescribed form of the returns referred to in sub-sections (*1*) and (*2*) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof.]

Assessment.

23. (*1*) If the Income-tax Officer is satisfied [2][without requiring the presence of the assessee or the production by him of any evidence] that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(*2*) If the Income-tax Officer [3][is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person], a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(*3*) On the day specified in the notice issued under sub-section (*2*), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(*4*) [4][If any person fails to make the return required by any notice given under sub-section (*2*) of section 22 and has not made a return or a revised return under sub-section (3) of the same section] or fails to comply with all the terms of a notice issued under sub-section (*4*) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (*2*) of this section, the Income-tax Officer shall make the assessment to the best of his judgment [2][and determine the sum payable by the assessee on the basis of such assessment] [1][and, [2][in the case of a firm, may refuse to register it or may cancel its registration if it is already registered]]:

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 24.

[2] Ins. by s. 25, *ibid.*

[3] Subs. by s. 25, *ibid.*, for "has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve notice on the person who made the return".

[4] Subs. by s. 25, *ibid.*, for "If the principal officer of any company or any other person fails to make a return under sub-section (*1*) or sub-section (*2*) of section 22, as the case may be".

[1][Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration.]

[3][(*5*) Notwithstanding anything contained in the foregoing sub-sections when the assessee is a firm and the total income of the firm has been assessed under sub-section (*1*), sub-section (*3*) or sub-section (*4*), as the case may be,—

(*a*) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined:

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24:

Provided further that when any of such partners is a person not resident in British India, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm;

[4][Provided also that if at the time of assessment of any partner of a registered firm, the Income-tax Officer is of opinion that the partner is residing in Pakistan, the partner's share of the income, profits and gains of the firm shall be assessed on the firm in the manner laid down in the preceding proviso and the sum so determined as payable shall be paid by the firm; and]

(*b*) in the case of an unregistered firm, the Income-tax Officer may instead of determining the sum payable by the firm itself proceed in the manner laid down in clause (*a*) as applicable to a registered firm, if, in his opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.]

[5][(*6*) Whenever the Income-tax Officer makes a determination in accordance with the provisions of sub-section (*5*), he shall notify to the firm by an order in writing the amount of the total income on which the

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[1] Added by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 3, with effect from 1st April, 1930.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 25, for "in the case of a registered firm, may cancel its registration".

[3] Added *ibid.*

[4] Subs., with effect from 15th August, 1947, for "and" by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[5] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 12.

determination has been based and the apportionment thereof between the several partners.]

Power to assess individual members of certain companies.

[1][**23A.** [2]* * * * * * * * *

[2][(*1*)]. [3][Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company up to the end of the sixth month after its accounts for that previous year are laid before the company, in general meeting [4]* * * * are less than sixty per cent. of the assessable income of the company of that previous year, [5][as reduced by the amount of income-tax and super-tax payable by the company in respect thereof] he shall, unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of a dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the undistributed portion of the assessable income of the company of that previous year as computed for income-tax purposes [5][and reduced by the amount of income-tax and super-tax payable by the company in respect thereof] shall be deemed to have been distributed as dividends amongst the shareholders as at the date of the general meeting aforesaid, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income:

Provided that when the reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company whichever of these is greater, this section shall apply as if instead of the words 'sixty per cent.' [6]* * * * * the words 'one hundred per cent.' [6]* * * * * were substituted:

Provided further that no order under this sub-section shall be made where the company has distributed not less than fifty-five per cent. of the assessable income of the company [7][as reduced by the amount of income-tax and super-tax payable by the company in respect thereof], unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than sixty per cent. of the assessable income of the company of the previous year concerned [1][as reduced by the amount of income-tax and super-tax payable by the company in respect thereof]]:

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[1] S. 23A was ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 4, with effect from 1st April, 1923. This section does not apply in respect of profits and gains of the previous year for the assessment for the year ending on the 31st day of March, 1946, *see* s. 7(9) of the Indian Finance Act, 1945.

[2] Original sub-section (*1*) was rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 26.

[3] Original sub-section (*2*) was re-numbered (*1*) and this portion subs. by s. 26, *ibid.*

[4] The words "increased by any income-tax payable thereon" rep. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 7.

[5] Ins. by s. 7, *ibid.*

[6] The words "of the assessable income" rep. by s. 7, *ibid.*

[7] Ins. *ibid.*

[2][Provided further that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.]

Explanation.—For the purpose of this sub-section,—

[3]* * * * * * *

[4]* a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in the taxable territories ~~British India~~ or are in fact freely transferable by the holders to other members of the public.

[5]* * * * * * *

[6][(*2*)] The [7][Inspecting] Assistant Commissioner shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section until he has given the [8]* * * company concerned an opportunity of being heard.

[9][(*3*)] [10] * * * *

(*ii*) Where the proportionate share of any member of a company in the undistributed profits and gains of the company has been included in his total income under the provisions of [11][sub-section (*1*)] the tax payable in respect thereof shall be recoverable from the company, [12][if it cannot be recovered from such member] [13]* * * * *.

(*iii*) Where tax is recoverable from a company [14]* * * * * under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company [15]* * * * *

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 7.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 26, for the former proviso.

[3] Cl. (a) rep. by s. 26, *ibid.*

[4] The brackets and letter "(b)" rep. by s. 26, *ibid.*

[5] Cls. (c) and (d) rep. by s. 26, *ibid.*

[6] Sub-section (*3*) was renumbered (*2*) by s. 26, *ibid.*

[7] Ins. by s. 26, *ibid.*

[8] The words "firm, association or" rep. by s. 26, *ibid.*

[9] Sub-section (*4*) was renumbered (*3*) by s. 26, *ibid.*

[10] Sub-clause (i) was rep. by s. 26, *ibid.*

[11] Subs. by s. 26, *ibid.*, for "sub-section (*2*)".

[12] Subs. by s. 26, *ibid.*, for "and may be recovered from such member".

[13] Certain words were rep. by s. 26, *ibid.*

[14] The words "firm or other association" rep. by s. 26, *ibid.*

[15] The words "firm or association" rep. by s. 26, *ibid.*

After section 23A of Act XI of 1922, the following section shall be inserted, namely:-

"23B. Power to make provisional assessment in advance of regular assessment. - (1) The Income-tax Officer may, at any time after the receipt of a return made under section 22, proceed to make in a summary manner, a provisional assessment of the tax payable by the assesse, on the basis of his return and the accounts and documents, if any, accompany in it, after giving due effect to (i) the allowance referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received.

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless he firm fulfils such conditions as the Central Government may, by notification in the official Gazette, specify in that behalf.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 23.

(6) Income-tax paid or deemed to have been paid under section 18 or section 18A in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment.

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment under section 23."

shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter VI.

[1][(4)] Where tax has been paid in respect of any undistributed profits and gains of a company under this section, and such profits and gains are subsequently distributed in any year, the proportionate share therein of any number of the company shall be excluded in computing his total income of that year.

[2][(5) When a company is a shareholder deemed under sub-section (*1*) to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purpose also of the application of that sub-section to distributions of profits by that company.]

23 B

Set-off of loss in computing aggregate income.

24. (*1*) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year:

[3][Provided that, where the loss sustained is a loss of profits or gains which would but for the loss have accrued or arisen within an Indian State and would under the provisions of clause (*c*) of sub-section (*2*) of section 14, have been exempt from tax, such loss shall not be set off except against profits or gains accruing or arising within ~~an~~ Indian ~~State~~ and exempt from tax under the said provisions:]

but outside the taxable territories

[4][Provided [3][further] that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (*5*) of section 23 in the manner applicable to a registered firm, any such loss shall be set-off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm; and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners of the firm and they alone shall be entitled to have the amount of the loss set off under this section.]

[5][(*2*) Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March 1940, under the head "Profits and gains of business, profession or vocation", and the loss cannot be wholly set off under sub-section (*1*), the portion not so set off shall be carried forward to the following year, and set off against the profits and gains, if any, of the assessee from the same business, profession or vocation for that year; and if it cannot be wholly so set off the amount of loss not so set off shall be carried forward to the following year, and so on; but

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[1] Sub-section (*5*) was renumbered (*4*) by the Indian Income-tax Act, 1939 (7 of 1939), s. 26.

[2] Added by s. 26, *ibid.*

[3] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 6.

[4] Added by Act 7 of 1939, s. 27.

[5] Sub-sections (*2*) and (*3*) subs. by s. 27, *ibid.*, for the original sub-section (*2*), as amended by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 10.

no loss shall be so carried forward for more than six years and a loss arising in the previous years for the assessment for the years ending on the 31st day of March, 1940, the 31st day of March, 1941, the 31st day of March, 1942, the 31st day of March, 1943, and the 31st day of March, 1944, respectively, shall be carried forward only for one, two, three, four and five years, respectively:—

[1][Provided that—

[2][(*a*) where the loss sustained is a loss of profits and gains of a business, profession or vocation to which the first proviso to sub-section (*1*) is applicable, and the profits and gains of that business, profession or vocation are, under the provisions of clause (*c*) of sub-section (*2*) of section 14, exempt from tax, such loss shall not be set off except against profit and gains acrruing or arising in an Indian State from the same business, profession or vocation and exempt from tax under the said provisions ;]

[3][(*b*)] Where depreciation allowance is, under clause (*b*) of the proviso to clause (*vi*) of sub-section (*2*) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section ;]

[3][(*c*)] Nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (*1*), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (*5*) of section 23 in the manner applicable to a registered firm, to have carried forward and set off against his own income any loss sustained by the firm ;

[3][(*d*)] Where an unregistered firm is assessed as a registered firm under clause (*b*) of sub-section (*5*) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm ;

[4][[3][(*e*)] Where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 13.
[2] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 6.
[3] Relettered by s. 6, *ibid.*
[4] Subs. by Act 23 of 1941, s. 13, for the third proviso.

said clause (*b*), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains.]

[1][(*2a*) Notwithstanding anything contained in sub-section (*1*), where the loss sustained is a loss falling under the head "Capital gains", such loss shall not be set off except against any profits and gains falling under that head.

(*2b*) Where an assessee sustains a loss such as is referred to in sub-section (*2a*) and the loss cannot be wholly set off in accordance with the provisions of that sub-section, the portion not so set off shall be carried forward to the following year and set off against capital gains for that year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following year and so on, so however that no such loss shall be so carried forward for more than six years:

Provided that where the loss sustained in any previous year does not exceed fifteen thousand rupees, it shall not be carried forward.]

(*3*) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section.]

Assessment in case of departure from British India.

the taxable territories

[2][**24A.** (*1*) When it appears to the Income-tax Officer that any person may leave British India during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income [3][of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from ~~British India~~, or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from ~~British India~~. The assessment shall be made on the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made]:

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which have escaped assessment [1][or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is debarred from issuing a notice under section 34.

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[1] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 10, with effect from 31st March, 1947.

[2] S. 24A was ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 11.

[3] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 28, for the former words.

(*2*) For the purpose of making an assessment under sub-section (*1*) the Income-tax Officer may serve a notice upon such person requiring him to furnish within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (*2*) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years [2][comprised in the relevant period referred to in the first sentence of] sub-section (*1*) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure ; and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (*2*) of section 22.]

Tax of deceased person payable by representative.

[3][**24B.** (*1*) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died.

[4][(*2*) Where a person dies before the publication of the notice referred to in sub-section (*1*) of section 22 or before he is served with a notice under sub-section (*2*) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (*2*) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee.]

(*3*) Where a person dies, without having furnished a return which he has been required to furnish under the provisions [5]* * * of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may [6][, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person.]

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 28, for "or have been assessed at too low a rate".

[2] Subs. *ibid.*, for "comprised in the first period referred to in".

[3] S. 24B was ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 11.

[4] Subs. by Act 7 of 1939, s. 29, for the former sub-section.

[5] The words, brackets and figure "of sub-section (*2*)" rep. by s. 29, *ibid.*

[6] Ins. by s. 29, *ibid.*

Assessment in case of discontinued business.

25. (*1*) Where any business, profession or vocation [1][to which sub-section (*3*) is not applicable], is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year, and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(*2*) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

(*3*) Where any business, profession or vocation [2]* * on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is discontinued, [3][then, unless there has been a succession by virtue of which the provisions of sub-section (*4*) have been rendered applicable,] no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

VII of 1918.

[4][(*4*) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1939, carrying on any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further

VII of 1939.

VII of 1918.

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 7, for "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918", which had been subs. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 6, for "commenced after the 31st day of March, 1922".

[2] The words "which was in existence at the commencement of this Act, and" were rep. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 6.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 30.

[4] Sub-sections (*4*) and (*5*) were ins. *ibid.*

claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference:

[1][Provided that sub-sections (*3*) and (*4*) shall not apply—

(*a*) to super-tax except where the income, profits and gains of the business, profession or vocation were assessed to super-tax for the first time either for the year beginning on the 1st day of April, 1920, or for the year beginning on the 1st day of April, 1921 ;

(*b*) to a business, profession or vocation on which income-tax was at any time charged in the hands of a company under the Indian Income-tax Act, 1886, or on which income-tax would have been charged in the hands of a company for the assessment year ending on the 31st day of March, 1918, if the company having been in existence in that year had also been in existence in the year ending on the 31st day of March, 1917.] II of 1886.

(*5*) No claim to the relief afforded under sub-section (*3*) or sub-section (*4*) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be.]

[2][(*6*)] Where an assessment is to be made under [3][sub-section (*1*), sub-section (*3*), or sub-section (*4*)], the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice isued under that sub-section.

Assessment after partition of a Hindu undivided family.

[4][**25A.** (*1*) Where at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto [5][assessed as] undivided that a partition has taken place, among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied [6]* * * that the joint

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[1] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 14.

[2] Sub-section (*4*) was re-numbered (*6*) by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 30.

[3] Subs. by s. 30, *ibid.*, for " sub-section (*1*) or sub-section (*3*) ".

[4] S. 25A was ins. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 4, with effect from 1st April, 1928.

[5] Ins. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 3.

[6] The words " that a separation of the members of the family has taken place and " rep. by Act 7 of 1939.

family property has been partitioned among the various members or groups of members in definite portions [1]* * * * * he shall record an order to that effect:

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(*2*) Where such an order has been passed, [2][or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family whose joint family property has been partitioned on or after the last day on which it carried on such business, profession or vocation,] the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no [3]* * partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (*1*) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it; and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23:

Provided that all the [4][members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such.]

[5][(*3*) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family.]

Change in constitution of a firm.

[6][**26.** (*1*) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, [7][the assessment shall be made on the firm as constituted] at the time of making the assessment:

[8][Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same:

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment.]

[9][(*2*) Where a person carrying on any business, profession or vocation

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[1] The words "before the end of the previous year" rep. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 3.

[2] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 31.

[3] The words "separation or" rep. by s. 31, *ibid.*

[4] Subs. by s. 31, *ibid.*, for "separated members and groups of members".

[5] Added by Act 22 of 1930, s. 3.

[6] Subs. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 5, for the original section, with effect from 1st April, 1928.

[7] Subs. by Act 7 of 1939, s. 32, for the former words.

[8] Added by s. 32, *ibid.*

[9] Subs. *ibid.*, for the former sub-section.

has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (*4*) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year:

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.]]

Procedure in registration of firms.

[1][**26A.** (*1*) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax.

(*2*) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed; and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed.]

Cancellation of assessment when cause is shown.

27. Where an assessee [2]* * * * within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (*4*) of section 22, or sub-section (*2*) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

Penalty for concealment of income or improper distribution of profits.

[3][**28.** [4][(*1*) If the Income-tax Officer, the Appellate Assistant Commissioner [5][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that any person—

(*a*) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (*1*) or sub-section (*2*) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice ; or

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 5, with effect from 1st April, 1930.

[2] The words "or, in the case of a company, the principal officer thereof" rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 33.

[3] S. 28 was subs. by Act 21 of 1930, s. 6, for the original section, with effect from 1st April, 1930.

[4] Subs. by Act 7 of 1939, s. 34, for the former sub-section.

[5] Subs. by s. 86, *ibid.*, for "or the Commissioner".

(*b*) has without reasonable cause failed to comply with a notice under sub-section (*4*) of section 22 or sub-section (*2*) of section 23 ; or

(*c*) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income:

[1][he or it may direct] that such person shall pay by way of penalty in the case referred to in clause (*a*), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding one and a half times that amount and in the cases referred to in clauses (*b*) and (*c*), in addition to any tax payable by him, a sum not exceeding one and a half times the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income:

Provided that—

(*a*) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (*2*) of section 22 ;

(*b*) where a person has failed to comply with a notice under sub-section (*2*) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees ;

(*c*) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in British India for failure to furnish the return required under section 22 unless a notice under sub-section (*2*) of that section or under section 34 has been served on him ;]

[2][(*d*) when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23 (*5*) (*b*) as a registered firm so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (*b*) and (*c*), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm.]

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 86, for " he may direct ".

[2] Added by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 8.

(*2*) If the Income-tax Officer, the [1][Appellate Assistant Commissioner] [2][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, [3][he or it may direct] that such partner shall, [4][in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum [5][not exceeding one and a half times the amount of income-tax and super-tax] which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income ; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

(*3*) No order shall be made under sub-section (*1*) or sub-section (*2*) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard.

(*4*) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(*5*) An [1][Appellate Assistant Commissioner] [6][or the Appellate Tribunal on making] an order under sub-section (*1*) or sub-section (*2*), shall forthwith send a copy of the same to the Income-tax Officer.]

[7][(*6*) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner.]

Notice of demand.

[8][**29.** When any [9][tax, penalty or interest] is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such [9][tax, penalty or interest] a notice of demand in the prescribed form specifying the sum so payable.]

Appeal against assessment under this Act.

30. (*1*) Any assessee objecting to the amount [10][of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act, [1][or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (*4*) of section 23 or to a refusal to register a firm under sub-section (*4*) of section 23 or section 26A], [2][or] to make a fresh assessment under section 27, or [3][objecting] to any order [4]* * under sub-section (*2*) of section 25 [5][or section 25A] [3][or sub-section (*2*) of section 26] or section 28 made by an Income-tax Officer [3][or objecting to any penalty imposed by an Income-tax Officer under sub-section (*6*) of section 44E or sub-section (*5*) of section 44F or sub-section (*1*) of section 46] [3][or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub-section (*1*) of section 23A], may appeal to the [6][Appellate Assistant Commissioner] against the assessment or against such refusal or order:

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 34, for " Assistant Commissioner ".

[2] Subs. by s. 86, *ibid.*, for " or the Commissioner ".

[3] Subs. by s. 86, *ibid.*, for " he may direct ".

[4] Subs. by s. 34, *ibid.*, for " in addition to the Income-tax payable by him ".

[5] Subs. by s. 34, *ibid.*, for " not exceeding the amount of income-tax ".

[6] Subs. by s. 86, *ibid.*, for " or a Commissioner who has made ".

[7] Added by s. 34, *ibid.*

[8] Subs. by s. 35, *ibid.*, for the original section.

[9] Subs. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 8, for " tax or penalty ".

[10] Subs. by Act 7 of 1939, s. 36, for " or rate at which he is assessed under section 23 or section 27 ".

[7][Provided that no appeal shall lie against an order under sub-section (*1*) of section 46 unless the tax has been paid:

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income:

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income.]

[8][(*1a*) Any person having, in accordance with the provisions of sub-section (*3a*), (*3b*) or (*3c*) of section 18, read with sub-section (*6*) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction.]

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 9, for "or objecting to a refusal of an Income-tax Officer to register a firm under section 26A".

[2] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 12.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 36.

[4] The words "against him" rep. by s. 36, *ibid.*

[5] Ins. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 4.

[6] Subs. by Act 7 of 1939, s. 36, for "Assistant Commissioner".

[7] Subs. by s. 36, *ibid.*, for the original proviso.

[8] Ins. by Act 11 of 1944, s. 9.

(*2*) The appeal, shall ordinarily be presented within thirty days [1][of the payment of the tax deducted under sub-section (*3a*), (*3b*) or (*3c*) of section 18 or] of receipt of the notice of demand relating to the assessment or penalty objected to [2][or of the order in writing notifying the amount of total income on which the determination under sub-section (*5*) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24] [3][or of the intimation of the refusal [4][to pass an order under sub-section (*1*) of section 25A, or] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, [5][or of the intimation of an order under sub-section (*1*) of section 23A or under section 48, 49 or 49F], as the case may be ; but the [6][Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(*3*) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

Hearing of appeal.

31. (*1*) The [7][Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(*2*) The [7][Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

[8][(*2a*) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.]

(*3*) In disposing of appeal the [7][Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(*a*) confirm, reduce, enhance or annul the assessment, [9]* * * ; or

(*b*) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the [7][Appellate Assistant Commissioner] may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment [10][and determine where necessary the amount of tax payable on the basis of such fresh assessment.

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 9.

[2] Ins. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 15.

[3] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 12.

[4] Ins. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I.

[5] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 36.

[6] Subs. by Act 7 of 1939, s. 36, for "Assistant Commissioner".

[7] Subs. by Act 7 of 1939, s. 37, for "Assistant Commissioner".

[8] Ins. by s. 37, *ibid.*

[9] Certain words, ins. by s. 37, *ibid.*, were rep. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 16.

[10] Added by Act 7 of 1939, s. 37.

[1][[2][or, in the case of an order cancelling the registration of a firm under sub-section (*4*) of section 23 or refusing to register a firm under sub-section (*4*) of section 23 or section 26A] [3][or] to make a fresh assessment under section 27 ;

(*c*) confirm such order, or cancel it and direct the Income-tax Officer [4][to register the firm or to make a fresh assessment, as the case may be];]

or in the case of an order under sub-section (*2*) of [5][section 25 or sub-section (*1*) of section 23A, or sub-section (*2*) of section 26 or section 48, 49 or 49F] ;

[6][(*d*)] confirm, cancel or vary such order ;

[7][or, in the case of an order under sub-section (*1*) of section 25A ;

(*e*) confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (*2*) of section 25A ;

or, in the case of an order under section 28 or sub-section (*6*) of section 44E or sub-section (*5*) of section 44F or sub-section (*1*) of section 46 ;

(*f*) confirm or cancel such order or vary it so as either to enhance or reduce the penalty ;

or, in the case of an appeal against a camputation of loss under section 24 ;

(*g*) confirm or vary such computation] ;

[8][or, in the case of an appeal under sub-section (*1a*) of section 30,

(*h*) decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub-section (*6*) of section 18:]

Provided that the [9][Appellate Assistant Commissioner] shall not enhance an assessment [7][or a penalty] unless the appellant has had a reasonable opportunity of showing cause against such enhancement:

[10][Provided further that at the hearing of any appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative.]

[11][(*4*) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or asso-

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[1] Ins. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 5.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 10, for "or, in the case of an order refusing *to register a firm under section 26A*" ; the words in italics were inserted by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933).

[3] The word "or" was ins. by Act 18 of 1933, s. 13.

[4] Subs. by Act 18 of 1933, s. 13, for "to make a fresh assessment".

[5] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 37, for "section 25 or section 28".

[6] Cl. (*c*) was relettered (*d*) by Act 22 of 1930, s. 5.

[7] Ins. by Act 7 of 1939, s. 37.

[8] Ins. by Act 11 of 1944, s. 10.

[9] Subs. by Act 7 of 1939, s. 37, for "Assistant Commissioner".

[10] Added by Act 7 of 1939, s. 37.

[11] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 16.

ciation of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(*5*) The Appellate Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.]

32. [*Appeals against orders of Appellate Assistant Commissioner.*] *Rep. by the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), s. 87.*

Appeals against orders of Appellate Assistant Commissioner.

[1][33. (*1*) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 28 or section 31, may appeal to the Appellate Tribunal within sixty days of the date [2][on which such order is communicated to him.]

(*2*) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 31, direct the Income-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made [3][within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner].

[4][(*2a*) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (*1*) and (*2*) if it is satisfied that there was sufficient cause for not presenting it within that period.]

(*3*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (*2*), be accompanied by a fee of one hundred rupees.

(*4*) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner.

[5][(*5*) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.]

[6][(*6*)] Save as provided in section 66, orders passed by the Appellate Tribunal on appeal shall be final.]

Power of revision by Commissioner.

[7][**33A.** (*1*) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any

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[1] Sub-sections (*1*), (*2*), (*3*), (*4*) and (*6*) of s. 33 were subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 88, for the original section.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 17, for "on which he is served with notice of such order".

[3] Subs. by s. 17, *ibid.*, for "at any time before the expiry of sixty days from the date of the order".

[4] Sub-section (*2a*) was ins. by s. 17, *ibid.*

[5] Sub-section (*5*) was ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 11.

[6] Sub-section (*5*) was renumbered (*6*) by s. 11, *ibid.*

[7] S. 33A was ins. by Act 23 of 1941, s. 18. The former s. 33A, which had been ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 7, with effect from 1st April, 1930, was rep. by Act 7 of 1939, s. 40.

33B. Power of Commissioner to revise Income-tax Officer's orders.- (1) The Commr. may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an ~~xx~~ order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1) —

(a) to revise an order of re-assessment made under the provisions of section 34; or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may~~ax~~ appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him.

(4) An appeal to the Appellate Tribunal under sub-sec. (3) shall be in the prescribed from and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs.100/- , and such appeal shall be dealt with in the same manner as if it were an appeal under sub-section (1) of section 33." XLVIII/48

authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired ; or

(*b*) the order is pending on an appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal ; or

(*c*) the order has been made more than one year previously.

(*2*) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal ; or

(*b*) where an appeal against the order has been made to the Appellate Assistant Commissioner, the appeal is pending before the Appellate Assistant Commissioner ; or

(*c*) the order has been made the subject of an appeal to the Appellate Tribunal:

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(*3*) Every application by an assessee under sub-section (*2*) shall be accompanied by a fee of twenty-five rupees.] 33-B

Income escaping assessment.

34. [1][(*1*)] If [2][in consequence of definite information which has come into his possession the Income-tax Officer discovers that] income, profits or gains chargeable to income-tax [3][have escaped assessment in any year, or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act] the Income-tax Officer may, [4][in any case in which he has reason to believe that the assessee has concealed the particulars of his income or deliberately furnished inaccurate particulars thereof, at any time within eight years, and in any other case at any time within four years] of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 22, and may proceed to assess or re-assess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

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[1] Original s. 34 was renumbered as sub-section (*1*) of that section by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 41.

[2] Subs. by s. 41, *ibid.*, for "for any reason".

[3] Subs. by s. 41, *ibid.*, for "has escaped assessment in any year, or has been assessed at too low a rate".

[4] Subs. by s. 41, *ibid.*, for "at any time within one year".

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be:

[1][Provided further that when the income, profits or gains concerned are income, profits or gains liable to assessment for a year ending prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, or where the assessment made or to be made is an assessment made or to be made on a person deemed to be the agent of non-resident person under section 43, this sub-section shall have effect as if for the periods of eight years and four years a period of one year were substituted.]

VII of

[1][(*2*) No order of assessment under section 23 or of assessment or re-assessment under sub-section (*1*) of this section shall be made after the expiry, in any case to which clause (c) of sub-section (*1*) of section 28 applies, of eight years, and in any other case, of four years from the end of the year in which the income, profits or gains were first assessable:]

[2][Provided that nothing contained in this sub-section shall apply to a re-assessment made in pursuance of an order under section 31, section 33, section 66, or section 66A.]

34

Rectification of mistake.

35. (*1*) [3][The Commissioner or [4][Appellate Assistant Commissioner] may, at any time [5][within four years] from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under [6][section 33A] and] the Income-tax Officer may, at any time, [5][within four years] from the date of any [7][assessment order, [8][or refund order] passed by him] on his own motion rectify any mistake apparent from the record [9][of the appeal, revision, [10][assessment or refund] as the case may be], and

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 41.

[2] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 19.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 6, with effect from 1st April, 1928.

[4] Subs. by Act 7 of 1939, s. 42, for "Assistant Commissioner".

[5] Subs. by s. 42, *ibid.*, for "within one year".

[6] Subs. by Act 23 of 1941, s. 20, for "section 33".

[7] Subs. by Act 7 of 1939, s. 42, for, "demand made upon an assessee".

[8] Ins. by the Income-tax Law (Amendment) Act, 1940 (12 of 1940), s. 3.

[9] Subs. by Act 3 of 1928, s. 6, for "of the assessment", with effect from 1st April, 1928.

[10] Subs. by Act 12 of 1940, s. 3, for "or assessment".

(2) Where an assessment is reopened in circumstances falling under clause (b) of sub-section (1), the assessee may, if he has not impugned any part of the original assessment order for that year either under section 30 or under section 33 A, claim that the proceedings under sub-section (1) of this section shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the items alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made,

provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 33 B or section 35, or by a decision of the High Court or of the privy Council under section 66 and section 66 A.

(3) No order of assessment under section 23 to which clause (c) of sub-section (1) of section 28 applies or of assessment or re-assessment in case falling within clause (a) of sub-section (1) of this section shall be made after the expiry of eight years, and no order of assessment or re-assessment in any other case shall be made after the expiry of four years, from the end of the year in which the income, profits or gains were first assessable,

provided that where a notice under sub-section (1) has been issued within the time therein limited, the assessment or reassessment to be made in pursuance of such notice may be made before the expiry of one year from the date of the service of the notice even if such period exceeds the period of eight years or four years, as the case may be.

provided further that nothing contained in this sub-section shall apply to a reassessment made under section 27 or in pursuance of an order under section 31, section 33, section 33_A, section 33_B, section 66 or section 66_A.

provided that--

(i) the income-tax officer shall not issue a notice unde this sub-section, unless he has recorded his reasons for doing so and the commissioner is satisfied on such reaso recorded that it is a fit case for the issue of such notice;

(ii) the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be; and

(iii) where the assessment made or to be made is an asses ment made or to be made on a person deemed to be the age of a non-resident person under section 43, this sub-secti shall have effect as if for the periods of eight years a four years a period of one year was substituted.

Explanation, production before the Incometax officer of account-books or other evidence from which material facts could with due diligence have been discovered by the Inco tax officer will not necessarily amount to disclosure wit in the meaning of this section.

XLVIII/48

8. Amendment of section 34, Act XI of 1922. For section 34 of the said Act, the following section shall be substituted, namely:

"34. Income escaping assessment. (1) If--
(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of an asses to make a return of his income under section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income, profits or gains chargeable to income-tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that year, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may procee to assess or reassess such income, profits or gains or recompute the loss or depreciation allowance; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section;

XLVIII/48

shall within the like period rectify any such mistake which has been [1][brought to his notice by an assessee]:

Provided that no such rectification shall be made, having the effect of enhancing an assessment [2][or reducing a refund] unless [3][the Commissioner, the [4][Appellate Assistant Commissioner] or the Income-tax Officer, as the case may be], has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard:

[5][Provided further that no such rectification shall be made of any mistake in any order passed more than one year before the commencement of the Indian Income-tax (Amendment) Act, 1939.]

[6][(*2*) The provisions of sub-section (*1*) apply also in like manner to the rectification of mistakes by the Appellate Tribunal.]

[7][(*3*)] Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

[7][(*4*)] Where any such rectification has the effect of enhancing the assessment [2][or reducing a refund] the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

Tax to be calculated to nearest anna.

36. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath, etc.

37. The Income-tax Officer, [8][Appellate Assistant Commissioner], [9][Commissioner and Appellate Tribunal] shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses, and any proceeding before an Income-tax Officer, [8][Appellate Assistant Commissioner], [10][Commissioner or Appellate Tribunal] under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 [1][and for the purposes of section 196] of the Indian Penal Code. XLV of 1860.

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 42, for "brought to his notice by the assessee". The words "the assessee" had been subs. by Act 3 of 1928, s. 6, for "such assessee", with effect from 1st April, 1928.

[2] Ins. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 3.

[3] Subs. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 6, for "the Income-tax Officer", with effect from 1st April, 1928.

[4] Subs. by Act 7 of 1939, s. 42, for "Assistant Commissioner".

[5] Added by Act 7 of 1939, s. 42.

[6] Ins. by s. 89, *ibid.*

[7] Sub-sections (*2*) and (*3*) were renumbered (*3*) and (*4*) respectively by s. 89, *ibid.*

[8] Subs. by s. 43, *ibid.*, for "Assistant Commissioner".

[9] Subs. by s. 90, *ibid.*, for "and Commissioner".

[10] Subs. by s. 90, *ibid.*, for "or Commissioner".

Power to call for information.

38. The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

(*1*) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses;

(*2*) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses;

[2][(*3*) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head "Salaries," amounting to more than four hundred rupees, together with particulars of all such payments made.]

[3][(*4*) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the sale, exchange or transfer of a capital asset, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts.]

Power to inspect the register of members of any company.

39. The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

CHAPTER V.

LIABILITY IN SPECIAL CASES.

Guardians, trustees and agents.

[4][**40.** (*1*) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act; the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner

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[1] Ins. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 6.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 44, for the former cl. (*3*) which had been ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 15.

[3] Added by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 11, with effect from 31st March, 1947.

[4] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 21, for the original section, as amended by Act 7 of 1939, s. 45.

and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

(*2*) Where the trustee or agent of any person not resident in British India and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.]

Courts of Wards, etc.

41. [1][(*1*)] In the case of income, profits or gains chargeable under this Act which [2]* * * the Courts of Wards, the Administrators-General, the Official Trustees or [3]* any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, [4][or any trustee or trustees [5][appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person], the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager [6][or trustee, or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from [7][the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly:

VI of 1913.

[8][Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate [9][but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person,

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[1] Original s. 41 was re-numbered sub-section (*1*) of that section by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 46.

[2] The words "are received by" rep. by s. 46, *ibid.*

[3] The word "by" rep. by s. 46, *ibid.*

[4] Ins. by s. 46, *ibid.*

[5] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 22, for "appointed under a duly executed trust deed".

[6] Ins. by Act 7 of 1939, s. 46.

[7] Subs. by s. 46, *ibid.*, for "any person on whose behalf such income profits or gains are received".

[8] Added by s. 46, *ibid.*

[9] Ins. by the Indian Income-tax (Amendment) Act, 1946 (8 of 1946), s. 5, with effect from 4th May, 1946.

as if such income, profits or gains or such part thereof were the total income of an association of persons] :

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part.]

[1][(*2*) Nothing contained in sub-section (*1*) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains.]

Income deemed to accrue or arise within British India.

The taxable territories

42. (*1*) [2][All income, profits or gains accruing or arising], whether directly or indirectly, through or from any business connection [3][in ~~British India~~, or through or from any property in ~~British India,~~ or through or from any asset or source of income in ~~British India~~, or through or from any money lent at interest and brought into ~~British India~~ in cash or in kind], [4][or through or from the sale, exchange or transfer of a capital asset in ~~British India,~~] shall be deemed to be income accruing or arising within ~~British~~ India; and [5][where the person entitled to the income, profits or gains is not resident in ~~British India~~, shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax:

[6][Provided that where the person entitled to the income, profits, or gains is not resident in ~~British India~~ the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come within ~~British India~~:

[7][Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this sub-section, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 46.

[2] Subs. by Act 7 of 1939, s. 47, for "In the case of any person residing out of British India, all profits or gains accruing or arising to such person".

[3] Subs. by s. 47, *ibid.*, for "or property in British India".

[4] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 12, with effect from 31st March, 1947.

[5] Subs. by Act 7 of 1939, s. 47, for "shall be chargeable to income-tax in the name of the agent of any such person, and".

[6] Subs. by s. 47, *ibid.*, for "Provided that".

[7] Added by s. 47, *ibid.*

the liability, and the certificate so obtained shall be his warrant for retaining that amount :

Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person.]

(2) Where a person not resident [1][or not ordinarily resident] in ~~British India~~ [2]* * * * carries on business with a person resident in ~~British India~~ and it appears to the Income-tax Officer [3]* * * * * that owing to the close connection [4][between such persons the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident] produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

[5][(3) In the case of a business of which all the operations are not carried out in ~~British India,~~ the profits and gains of the business deemed under this section to accrue or arise in ~~British India~~ shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in ~~British India.~~]

taxable territories

Agent to include persons treated as such.

43. Any person employed by or on behalf of a person residing out of ~~British India~~, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

[6][Provided that where transactions are carried on in the ordinary course of business through a broker in ~~British India~~ in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first-mentioned broker shall not be deemed to be an agent under this section in respect of such transactions:]

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 47.

[2] The words "and, not being a British subject or a firm or company constituted within His Majesty's Dominions or a branch thereof" rep. by s. 47, *ibid.*

[3] The words "or the Assistant Commissioner, as the case may be", rep. by Act 7 of 1939, s. 47.

[4] Subs. by s. 47, *ibid.*, for "between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident".

[5] Subs. by s. 47, *ibid.*, for the former sub-section (3) which had been ins. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 3, with effect from 1st April, 1928.

[6] Ins., *ibid.*, s. 48.

Provided [1][further] that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

[2][*Explanation.*—A person, whether residing in or out of ~~British India,~~ the taxable territories who acquires, after the 28th day of February, 1947, whether by sale, exchange or transfer, a capital asset in ~~British India~~ the taxable territories from a person residing out of ~~British India~~ the taxable territories shall, for the purposes of charging to tax the capital gain arising from such sale, exchange or transfer, be deemed to have a business connection, within the meaning of this section, with such person residing out of ~~British India.~~ the taxable territories]

Liability in case of a discontinued firm or association.

[3][**44.** Where any business, profession or vocation carried on by a firm or association of persons has been discontinued, or where an association of persons is dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the income, profits and gains of the firm or association, be jointly and severally liable to assessment under Chapter IV and for the amount of tax payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment.]

[4][CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

Liability to tax of occasional shipping.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of ~~British India~~ the taxable territories and carries on business in ~~British India~~ the taxable territories in any year as the owner of charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Return of profits and gains.

44B. (*1*) Before the departure from any port in ~~British India~~ the taxable territories of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(*2*) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (*1*) and for this purpose may call for such accounts or documents as he may require, and one ~~twentieth~~ XXXth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 48.

[2] Added by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 13, with effect from 31st March, 1947.

[3] Subs. by Act 7, of 1939, s. 49, for the original section.

[4] Chapter VA was ins. by the Indian Income-tax (Further Amendment) Act, 1923 (27 of 1923), s. 3.

Chapter VA.—Special Provisions relating to certain classes of Shipping.
Chapter VB.—Special Provisions relating to Avoidance of Liability to Income-tax and Super-tax.)

to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming [1][in the year] following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be.]

[2][CHAPTER VB.

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX.

Avoidance of income-tax by transactions resulting in the transfer of income to persons resident or ordinarily resident abroad.

44D. (1) Where any person has, by means of a transfer of assets, by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not ordinarily resident in ~~British India,~~ the taxable territories acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether forthwith or in the future, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first-mentioned person for all the purposes of this Act.

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in ~~British India~~ the taxable territories, any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or moneys worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 50, for "in any year".

[2] Chapter VB was ins. by s. 51, *ibid.*

income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act.

(*3*) Sub-sections (*1*) and (*2*) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

(*a*) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation ; or

(*b*) that the transfer and all associated operations were *bonâ fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

(*4*) For the purposes of this section, an " associated operation " means in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets.

(*5*) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in British India, if—

(*a*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to ensure for the benefit of the first-mentioned person ; or

(*b*) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit ; or

(*c*) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income ; or

(*d*) such first-mentioned person has power by means of the exercise of any power of appointment or pwoer of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income ; or

(*e*) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income.

(*6*) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(*7*) For the purposes of this section—

(*a*) the expression " assets " includes property or rights of any kind, and the expression " transfer " in relation to rights includes the creation of those rights ;

(*b*) the expression " benefit " includes a payment of any kind ;

(*c*) references to income of a person not resident or of a person not ordinarily resident in ~~British India~~ the taxable territories shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (*1*) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person,

(*d*) references to assets representing any assets, income or accumulations of income include references to shares in or obligations of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred ;

(*e*) any body corporate incorporated outside ~~British India~~ shall be treated as if it were resident out of ~~British India~~ whether it is so resident or not.

the taxable territories

(*8*) The provisions of this section shall apply for the purposes of assessment to income-tax and super-tax for the year ending on the 31st day of March, 1940, and subsequent years, and shall apply, in relation to transfers of assets and associated operations whether carried out before or after the commencement of the Indian Income-tax (Amendment) Act, 1939. VII of 1939.

(*9*) Where any person has been charged to tax on any income deemed to be his under the provisions of this section, and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

Avoidance of tax by certain transactions in securities.

44E. (*1*) Where the owner of any securities (in this sub-section and in sub-section (*2*) referred to as " the owner ") agrees to sell or transfer those securities, and by the same or any collateral agreement—

(*a*) agrees to buy back or re-acquire the securities ; or

(*b*) acquires an option, which he subsequently exercises, to buy back or re-acquire the securities ;

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to tax apart from the provisions of this section, be deemed for all the purposes of this Act to be the income of the owner and not to be the income of any other person.

(*2*) The references in sub-section (*1*) to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to tax than he would have been under if the original securities had been bought back or re-acquired.

(*3*) Where any person carrying on a business which consists wholly or partly in dealing in securities agrees to buy or acquire any securities, and by the same or any collateral agreement—

(*a*) agrees to sell back or re-transfer the securities ; or

(*b*) acquires an option, which he subsequently exercises, to sell back or retransfer the securities ;

then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable by him, no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(*4*) Sub-section (*3*) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.

(*5*) For the purpose of this section—

(*a*) the expression "interest" includes a dividend ;

(*b*) the expression "securities" includes stocks and shares ;

(*c*) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(*6*) The Income-tax Officer may by notice in writing require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities ; and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

Avoidance of tax by sales *cum* dividend.

44F. (*1*) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest and in respect of which within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or sper-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.

(*2*) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent. of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (*3*) applies.

(*3*) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued :

Provided that, this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income.

(*4*) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax.

(*5*) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

(*6*) For the purpose of this section the expression "securities" includes stocks and shares.]

CHAPTER VI.

RECOVERY OF TAX AND PENALTIES.

Tax when payable.

45. Any amount specified as payable in a notice of demand [1][[2][under sub-section (*3*)] of section 23A or] under section 29 or an order under section 31 [3]* * * * or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 [4]* * * * the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of:

the taxable territories

[5][Provided further that where an assessee has been assessed in respect of income arising outside ~~British India~~ in a country the laws of which prohibit or restrict the remittance of money to ~~British India~~, the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into ~~British India~~, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

Explanation.—For the purposes of this section income shall be deemed to have been brought into ~~British India~~ if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without ~~British India~~ or if the income whether capitalized or not has been brought into ~~British India~~ in any form.]

Mode and time of recovery.

46. (*1*) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

[6][(*1a*) For the purposes of sub-section (*1*), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.]

(*2*) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee,

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 8, with effect from 1st April, 1930.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 52, for " under sub-section (*4*) ".

[3] The words and figures " or section 32 " rep. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 23.

[4] The words, figures and letter " or under section 33A ", ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 8, with effect from 1st April, 1930, were rep. by Act 7 of 1939, s. 52.

[5] Added by s. 52, *ibid.*

[6] Ins. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 8, with effect from 1st April, 1928.

9. Amendment of section 46, Act XI of 1922: After sub-section (5) of section 46 of the said Act, the following sub-section shall be inserted, namely:

"(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income-tax Officer, either forthwith upon the money becoming due or being held or at or within the ~~specified~~ time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount.

The Income-Tax officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

Any person making any payment in compliance with a notice under this sub-section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt.

Any person discharging any liability to the assessee after receipt of the notice referred to in this sub-section shall be personally liable to the Income-Tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee ~~f~~for tax and penalties, whichever is less.

XCVIII/68

If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income-tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub-section (2) of section 46.

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer."

XCVIII/68

and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue.

[1][Provided that without prejudice to any other powers of the Collector in this behalf, he shall for the purpose of recovering the said amount have [2]* * * the powers which under the Code of Civil Procedure, 1908 a Civil Court has [3]* * * for the purpose of the recovery of an amount due under a decree.]

(*3*) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(*4*) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (*3*).

(*5*) If any assessee is in receipt of any income chargeable under the head " Salaries " the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the [4][Central Government], or as the [5][Central Board of Revenue] directs.

[6][(*6*) If the recovery of income-tax in any area has been entrusted to a Provincial Government under ~~section 124 (*1*) of the Government of India Act, 1935, the~~ article 258(1) of the Constitution Provincial Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.]

(*7*) Save in accordance with the provisions of sub-section (*1*) of section 42, [7][or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of [8][the financial year] in which any demand is made under this Act.

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[1] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 16.

[2] The words " in respect of the attachment and sale of debts due to the assessee " rep. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 24.

[3] The words " in respect of the attachment and sale of debts due to a judgment debtor " rep. by s. 24, *ibid.*

[4] Subs. by the A. O. 1937 for " G. of I.".

[5] Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch., for " Board of Inland Revenue ".

[6] Subs. by the A. O. 1937 for the original sub-section.

[7] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 53.

[8] Subs. by s. 53, *ibid.*, for " the year ".

[1][Provided that where the sum payable is allowed to be paid by instalments the period of one year herein referred to shall be reckoned from the date on which the last of such instalments was due.]

[2][(*8*) For the purposes of this section, the expression " Collector " shall include a Collector in Pakistan and the Income-tax Officer may forward a certificate under sub-section (*2*) to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector. [illegible]

(*9*) Where a Collector in British India receives through the Central Board of Revenue of India a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in British India, and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings.

(*10*) The provisions of sub-sections (*8*) and (*9*) shall remain in force only so long as there are in force similar provisions in this Act as in force as part of the law of Pakistan or under any other similar Act forming part of the law of Pakistan, for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in British India.]

Recovery of penalties.

47. Any sum imposed by way of penalty under the provisions of sub-section (*2*) of section 25, section 28, [3][sub-section (*6*) of section 44E, sub-section (*5*) of section 44F] or sub-section (*1*) of section 46, [4][and any interest payable under the provisions of sub-section (*4*), (*6*), or (*8*) of section 18A] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VII.

REFUNDS.

Refunds.

[5][**48.** (*1*) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

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[1] Added by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 24.

[2] Added, with effect from 15th August 1947, by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 54.

[4] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 12.

[5] Subs. by Act 7 of 1939, s. 55, for the former section.

(*2*) [1][The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers] if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(*3*) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income.

(*4*) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act.]

VII of 1939

48A. [*General power to make refunds.*] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 18 ; *rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 58.*

Relief in respect of United Kingdom income-tax.

49. (*1*) If any person who has paid [2][by deduction under section 18 or otherwise] Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid [2][by deduction or otherwise] United Kingdom income-tax [3][for the corresponding year] in respect of the same part of his income and that the rate at which he was entitled to and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax [4][or the appropriate rate of United Kingdom income-tax, whichever is less], and the rate at which he was entitled to, and obtained relief under that section:

10 & 11 Geo. 5, c. 18.

XLVIII/48

[2][Provided that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief.]

(*2*) In sub-section (*1*)—

(*a*) the expression " Indian income-tax " means income-tax and super-tax charged in accordance with the provisions of this Act ;

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 91, for " The Appellate Assistant Commissioner in the exercise of his appellate powers, or the Commissioner in the exercise of his appellate powers or powers of revision ".

[2] Ins. by Act 7 of 1939, s. 57.

[3] Subs. by s. 57, *ibid.*, for " for that year ".

[4] Ins. by the Indian Income-tax (Amendment) Act, 1934 (29 of 1934), s. 2.

XLVIII/48

[1][(*b*) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of this Act but before deduction of any relief due to him under this section, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of this Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under this section divided by his total income ;]

(*c*) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts ;

[2][(*d*) the expression "appropriate rate of United Kingdom income-tax" has the meaning assigned to that expression in section 27 of the Finance Act, 1920 as amended by the Finance Act, 1927.]

10 & 11 Geo c. 18

Relief in respect of Indian State and Dominion income-tax.

[3][**49A.** (*1*) The Central Government may, by notification in the official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act either and Dominion income-tax [4][in one or more countries] or Burmah income tax

(*2*) For the purposes of this section "Dominion income-tax" means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty's Dominions [5]([including the United Kingdom]) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section.

Agreement for avoidance of double taxation in India and Pakistan.

[6][**49AA.** The Central Government may enter into an agreement with Pakistan or the United Kingdom for the avoidance of double taxation of income, profits and gains under this Act and under the corresponding law in force in Pakistan, and may, by notification in the official Gazette, make such provision as may be necessary for implementing the agreement.]

Income-tax on company's dividend deemed

[7][**49B.** Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited, or distributed to any of the persons specified in section 3 who is a shareholder of a company which is assessed

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 57, for the original cl.

[2] Ins. by the Indian Income-tax (Amendment) Act, 1934 (29 of 1934), s. 2.

[3] Ss. 49A, 49B, 49C and 49D were ins. by Act 7 of 1939, s. 58.

[4] Ins. with effect from 15th August, 1947, by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[5] Subs. with effect from 15th August, 1947, *ibid.*, for "other than the United Kingdom".

[6] S. 49AA was ins. with effect from 15th August, 1947, *ibid.*

[7] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 25, for the former section.

(o) after sub-section (2), the following sub-section shall be added, namely;-

"(3) For the purposes of this section 'Burma income-tax' means any income-tax or super-tax charged under any law in force in Burma where the laws of Burma provide for relief in respect of tax charged on income both in Burma and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section." x L VIII/48

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to have been paid by shareholder.

to income-tax in British India or elsewhere, [1][such person shall, if the dividend is included in his total income, be deemed] in respect of such dividend himself to have paid income-tax (exclusive of super-tax) at the rate applicable to the [2][total income of the company] for the financial year in which the dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company is liable to pay income-tax bears to the whole income of the company.]

Relief granted to a company to be deemed relief granted to shareholder.

[3][**49C.** [4][(*1*) Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a shareholder of a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, the shareholder shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted in respect of income-tax only to the company for the financial year preceding the year in which the dividend was paid, credited or distributed or is deemed to have been paid, credited or distributed.]

(*2*) If the rate at which a shareholder is deemed under sub-section (*1*) to have obtained relief exceeds the rate at which he would have been entitled to relief had such relief been given direct to him by or under the said sections or Order, any excess shall be recovered from him either as an addition to the tax payable by him on any assessment made on him under section 23 or section 34 or by setting it off against any relief due to him under section 48.]

Relief in respect of tax charged in country not providing for relief in respect of British Indian income-tax.

[3][**49D.** If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income-tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one-half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less.]

[5][*Explanation.*—The expression "Indian income-tax" in this section means income-tax and super-tax charged in accordance with the provisions of this Act.]

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[1] Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 8, for "such person shall be deemed".

[2] Subs. by s. 8, *ibid.*, for "total income of a company".

[3] Sections 49C and 49D were ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 58.

[4] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 26, for the former sub-section.

[5] Added by s. 27, *ibid.*

Power to set off amount of refunds against tax remaining payable.

[1][**49E.**] Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, [2][Appellate Assistant Commissioner] or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, if any, remaining payable by the person to whom the refund is due.

Power of representative of deceased person or person disabled to make claim on his behalf.

[3][**49F.**] Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 [4]* * or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Limitation of claims for refund.

50. No claim to any refund of income-tax [5][or super-tax] under this Chapter shall be allowed, unless it is made within [6][four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India:

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939 the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (*11*) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later:]

VII of 1939.

[7][Provided [8][further] that a claim to refund under section 49 [8][of tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939] may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period.]

VII of 1939.

50A. [*Appeal against refusal of refund.*]—*Ins. by the Indian Income-tax* (*Second Amendment*) *Act, 1933* (18 of 1933), *s.* 20 ; ***rep.*** *by the Indian Income-tax* (*Amendment*) *Act, 1939* (7 of 1939) *s. 62.*

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[1] S. 49A, originally ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 19, was re-numbered 49E by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 59.

[2] Subs. by Act 7 of 1939, s. 59, for "Assistant Commissioner".

[3] S. 49B, originally ins. by Act 18 of 1933, s. 19, was renumbered 49F by Act 7 of 1939, s. 60.

[4] The word, figures and letter "or 48A" rep. by Act 7 of 1939, s. 60.

[5] Ins. by s. 61, *ibid.*

[6] Subs. by Act 7 of 1939, s. 61, for "the former words."

[7] Added by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 8.

[8] Ins. by Act 7 of 1939, s. 61.

CHAPTER VIII.

OFFENCES AND PENALTIES.

Failure to make payments or deliver returns or statements or allow inspection.

51. If a person fails without reasonable cause or excuse—

(*a*) to deduct and pay any tax as required by section 18 or under sub-section (*5*) of section 46 ;

(*b*) to furnish a certificate required by sub-section (*9*) of section 18 or by section 20 to be furnished ;

(*c*) to furnish in due time any of the returns mentioned in [1][section 19A], [2][section 20A], section 21, [3][sub-section (*2*) of] section 22, or section 38 ;

(*d*) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (*4*) of section 22, such accounts and documents as are referred to in the notice ;

(*e*) to grant inspection or allow copies to be taken in accordance with the provisions of section 39 ;

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration.

52. If a person makes a statement in a verification mentioned in [4][section 19A or] [5][section 20A [6][or section 21] or] section 22 [7][or sub-section (*2*) of section 26A] or sub-section (*3*) of section 30, [8][or sub-section (*3*) of section 33] [9]* * * * which is false, and which he either knows or believes to be false, or does not believe to be true, he shall [10][be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both].

Prosecution to be at instance of Inspecting

53. (*1*) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the [11][Inspecting Assistant Commisioner].

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1926 (24 of 1926), s. 3, with effect from 1st April, 1926.

[2] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 21.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 63.

[4] Ins. by Act 24 of 1926, s. 4, with effect from 1st April, 1926.

[5] Ins. by Act 18 of 1933, s. 22.

[6] Ins. by Act 7 of 1939, s. 64.

[7] Ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 9, with effect from 1st April, 1930.

[8] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 28, for " or sub-section (2) of section 32 ".

[9] The words, brackets, figures and letters " or sub-section (2) of section 33A or sub-section (3) of section 50A " rep. by Act 7 of 1939, s. 64. The words " or sub-section (2) of section 33A " had been ins., with effect from 1st April, 1930, by Act 21 of 1930, s. 9 ; and the words " or sub-section (3) of section 50A " had been ins. by Act 18 of 1933, s. 22.

[10] Subs. by s. 64, *ibid.*, for " be deemed to have committed the offence described in section 177 of the Indian Penal Code ".

[11] Subs. by Act 7 of 1939, s. 65, for " Assistant Commissioner ".

(*Chapter VIII.—Offences and Penalties.*)

Assistant Commissioner.

[1][(*2*) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence.]

Disclosure of information by a public servant.

54. (*1*) All particulars, contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential and not withstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof. I of 1872.

(*2*) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

[2]* * [3][(*3*)] Nothing in this section shall apply to the disclosure—

- (*a*) of any such particulars for the purposes of a prosecution under [4]* * the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act ; or XLV of 1860.
- (*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act ; or
- (*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand ; or
- [5][(*d*) of any such particulars to a Civil Court in any suit or proceeding to which Government is a party, which relates to any matter arising out of any proceeding under this Act ~~; or~~
- (*e*) of any such particulars ~~to~~ the Comptroller and Auditor General of India for the purpose of enabling him to discharge his functions under ~~section 144 of the Government of India Act, 1935~~ the Constitution; or
- (*f*) of any such particulars to any officer appointed by the Comptroller and Auditor General of India or the Central Board of Revenue to audit income-tax receipts or refunds ; or
- (*g*) of any such particulars, relevent to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries)

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[1] Subs. by s. 65, of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), for the original sub-section which read: "The Assistant Commissioner may stay any such proceeding or compound any such offence".

[2] The words "Provided that" rep. by s. 66, *ibid.*

[3] The proviso was numbered as sub-section (*3*) by s. 66, *ibid.*

[4] The words and figures "section 193 of" rep. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 9.

[5] Cls. (*d*) to (*g*) ins. by Act 7 of 1939, s. 66.

XX
185

II of

VIII of 1

In subsection (3) of section 54 of the said Act, at the end of clause (m) the word "or" shall be inserted, and after clause (m) the following clauses shall be inserted, namely,

"(n) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investments and balance of payments; or

(o) of such information as may be required by any officer or department of the Central Govt. or of a State Govt. for the purpose of investigation into the conduct and affairs of any public servant."

LV/48.

XXXVII of 1850.

Act, 1850 or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the ~~Government of India Act, 1935,~~ when exercising its functions in relation to any matter arising out of any such inquiry ; or]

[1][(*gg*) of any such particulars, relevant to any inquiry into a charge of mis-conduct in connection with income-tax proceedings against a lawyer or registered accountant, to the authority referred to in sub-section (*3*) of section 61, when exercising the functions referred to in that sub-section], [2][or]

II of 1899.

[3][(*h*)] of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document ; or]

[4][(*i*) of such facts, to an authorised officer of the United Kingdom, ~~or of any Indian State~~ or of any part of His Majesty's Dominions which has entered into an agreement with ~~British~~ India for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 [5][or section 49AA] of this Act to be given ; or

(*j*) of such facts, to an officer of a Provincial Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it ~~on agricultural income ;~~ or

VIII of 1878.

(*k*) of such facts, to any authority exercising powers under the Sea Customs Act, 1878, or any ~~Act of the~~ Central ~~Legislature~~ imposing a duty of excise as may be necessary for enabling it duly to exercise such powers ; or

(*l*) of such facts, [6][to any person charged by law with the duty of inquiring into the qualifications of electors], as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll ; or

(*m*) [7][of] so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established~~.~~]

[8]* * * [8][(*4*)] Nothing in this section shall apply to the production

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[1] Cl. (*gg*) ins. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 4.
[2] Ins. by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Sch. II.
[3] Cl. (*cc*), originally ins. by the Indian Income-tax (Second Amendment) Act,
1933 (18 of 1933), s. 23, was relettered (h) by the Indian Income-tax (Amendment)
Act, 1939 (7 of 1939), s. 66.
[4] Cls. (*i*) to (*m*) subs. for the original cl. (*d*) by s. 66, *ibid*.
[5] Ins., with effect from 15th August, 1947, by G. G. O. 31, dated 10th December,
1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.
[6] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 29,
for "to a Returning Officer".
[7] Ins. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 4.
[8] The words "Provided further that" rep. and the proviso, which had been
ins. by the Indian Income-tax (Amendment) Act, 1930 (21 of 1930), s. 18, with
effect from 1st April, 1930, was numbered as sub-section (*4*) by Act 7 of 1939, s. 66.

by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under [1][section 25A or] section 26A, or to the giving of evidence by a public servant in respect thereof.

[2]* * * [2][(*5*)] No prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX.

SUPER-TAX.

Charge of super-tax.

55. In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any [3][individual, Hindu undivided family, [4][company, local authority, unregistered firm or other association of persons], not being a registered firm], [5][or the partners of the firm or members of the association individually,] an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by ~~Act of the~~ [6][Central ~~Legislature~~]: Act

[5][Provided that where under the provisions of clause (*b*) of sub-section (*5*) of section 23 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself:]

Provided [7][further] that, where the profits and gains of an unregistered firm [7][or other association of persons not being a company] have been assessed to super-tax, super-tax shall not be pable by [8][a partner of the firm or a member of the association, as the case may be], in respect of the amount of such profits and gains which is proportionate to his share.

Total income for purposes of super-tax.

56. [9][Except in cases to which [10][section 15A applies or to which] by clause (*a*) of the proviso to sub-sections (*3*) and (*4*) of section 25 those sub-sections do not apply and] subject to the provisions of this Chapter, the total income of any [11][individual, Hindu undivided family, company, [12][local authority], unregistered firm or other [13][association of persons]] shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 66.

[2] The words "Provided further that" rep. and the proviso numbered as sub-section (5) by s. 66, *ibid.*

[3] Subs. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 7, with effect from 1st April, 1923, for "individual, unregistered firm, Hindu undivided family or company".

[4] Subs. by Act 7 of 1939, s. 67, for "company, unregistered firm or other Association of individuals".

[5] Ins. by s. 67, *ibid.*

[6] Subs. by the A. O. 1937 for "Indian Legislature".

[7] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 67.

[8] Subs. by s. 67, *ibid.*, for "an individual having a share in the firm".

[9] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 13.

[10] Ins. by the Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945), s. 6, (for indefinite period).

[11] Subs. by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 8, with effect from 1st April, 1923, for "individual, unregistered firm, Hindu undivided family or company".

[12] Ins. by Act 7 of 1939, s. 68.

[13] Subs. by s. 68, *ibid.*, for "association of individuals".

[1]* * * * *

57. [*Non-resident partners and shareholders.*]—*Rep. by the Indian Income-tax* (*Amendment*) *Act, 1939* (*7 of 1939*), *s. 69.*

Application of Act to super-tax.

58. (*1*) All the provisions of this Act, [2][relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, [3][the second proviso] to sub-section (*1*) of section 7, [4][the second and third provisos to section 8], [5][clauses (*a*) and (*b*) of sub-section (*2*) of section 14], and section 15, [6][15A] [7]* [8]* 19, [9][and 20 and the first proviso to sub-section (*1*) of section 41 and section] [10]* [11][[12]* 58F and [13][sub-section (*2*)] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

[14]* * * * *

(*2*) Save as provided in [15][[16][sub-sections (*2*), (*2a*), (*2b*), (*3b*), (*3c*), (*3d*) and (*3e*)] of section 18], [17]* [18][and section 58H) super-tax shall be payable by the assessee direct.

[19][CHAPTER IXA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

58A. In this Chapter, unless there is anything repugnant in the subject or context,—

Definitions.

(*a*) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter ;

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[1] The proviso was rep. by the Indian Income-tax (Amendment) Act, 1928 (3 of 1928), s. 10, with effect from 1st April, 1928.

[2] Subs. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 25, for "except".

[3] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 70, for "the proviso".

[4] Subs. by Act 18 of 1933, s. 25, for "the provisos to section 8".

[5] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 30, for "sub-section (*2*) of section 14".

[6] Ins. by the Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945), for indefinite period.

[7] The figures "17" rep. by Act 7 of 1939, s. 70.

[8] The figures "18" rep. by Act 18 of 1933, s. 25.

[9] Subs. by Act 7 of 1939, s. 70, for "20".

[10] The figures "21" rep. by s. 70, *ibid.*

[11] Subs. by Act 18 of 1933, s. 25, for "and 48".

[12] The figures "48" rep. by Act 7 of 1939, s. 70.

[13] Subs. by s. 70, *ibid.*, for "sub-sections (*2*) and (*3*)".

[14] The proviso, ins. by the Indian Income-tax (Amendment) Act, 1926 (24 of 1926), s. 6, with effect from 1st April, 1926, was rep. by Act 18 of 1933, s. 25.

[15] Ins. by s. 25, *ibid.*

[16] Subs. by Act 7 of 1939, s. 70, for "sub-sections (*3a*), (*3b*), (*3c*) and (*3d*)".

[17] The word and figures "section 57" rep. by s. 70, *ibid.*

[18] Ins. by the Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929), s. 4, with effect from 15th March, 1930.

[19] Chapter IXA was ins. by s. 5, *ibid.*, with effect from 15th March, 1930.

(*b*) an " employer " means—

(*i*) a Hindu undivided family, company, firm of other association of [1]* * persons, or

(*ii*) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 [2]* * maintaining a provident fund for the benefit of his or its employees ;

(*c*) an " employee " means an employee participating in a provident fund but does not include a personal or domestic servant ;

(*d*) a " contribution " means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest ;

(*e*) the " balance to the credit " of an employee means the total amount to the credit of his individual account in a provident fund at any time ;

(*f*) the " annual accretion " to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest ;

(*g*) the " accumulated balance due " to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund ; and

(*h*) the " regulations of a fund " means the special body of regulations governing the constitution and administration of a particular provident fund.

The according and withdrawal of recognition.

58B. (*1*) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

[3]* * * * *

[3][(*2*)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

[3][(*3*)] An order withdrawing recognition shall take effect from the day on which it is made.

[4][(*3a*) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the

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[1] The words " individuals or " rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 71.

[2] The words and figures " or section 11 " rep. by s. 71, *ibid.*

[3] Sub-section (2) rep. and sub-sections (*3*), (*4*) and (*5*) renumbered (*2*), (*3*) and (*4*) respectively by s. 72, *ibid.*

[4] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 9.

fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.]

[1][(*4*)] An employer objecting to an order of the Commissioner refusing to recognise [2][or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue. The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

Conditions to be satisfied by a recognised provident fund.

58C. (*1*) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the [3][Central Government] may, by rule, prescribe—

(*a*) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in ~~British India~~ the taxable territories:

[4][Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in ~~British India~~ notwithstanding that a proportion not exceeding ten per cent. of the employees is employed outside India.]

(*b*) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year and credited to the employee's individual account in the fund:

XVIII of 1940.
II of 1940.

[5][Provided that an employee who retains his employment while serving in ~~His Majesty's~~ the Armed Forces of the union or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940 may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered ~~His Majesty's~~ the Armed Forces of the union or been so taken into or employed in the national service, contribute to the fund during his service in ~~His Majesty's~~ the Armed Forces of the union or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered ~~His Majesty's~~ the Armed Forces of the union or been taken into or employed in the national service.]

(*c*) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.

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[1] Re-numbered by s. 72 of the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), for sub-section 5.

[2] Ins. by Act 7 of 1939, s. 72.

[3] Subs. by the A. O. 1937 for "G. G. in C.".

[4] Added by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 10.

[5] Added by s. 10, *ibid.*, with effect from 3rd September, 1939.

(*d*) The fund shall consist of contributions as above specified [1][and of donations, if any, received [2][by the trustees]], of accumulations thereof, and of interest (simple and compound), credited in respect of such [3][contributions, donations and accumulations], and of securities purchased therewith, [4][and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund,] and of no other sums.

(*e*) The fund shall be vested in two or more trustees [5][or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries.

(*f*) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

(*g*) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund.

(*h*) Save as provided in clause (*g*), or in accordance with such conditions and restrictions as the [6][Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

Power to relax restrictions of employer's contributions in certain cases.

58D. Subject to any rules which the [6][Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (*c*) of sub-section (*1*) of section 58C—

(*a*) so as to permit the payment of large contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem ; and

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 10.

[2] Subs. by the Indian Income-tax (Amendment) Act, 1941 (23 of 1941), s. 31, for "from the trustees".

[3] Subs. by Act 40 of 1940, s. 10, for "contributions and accumulations".

[4] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 14, with effect from 31st March, 1947.

[5] Ins. by the Indian Income-tax (Amendment) Act, 1931 (4 of 1931), s. 2.

[6] Subs. by the A. O. 1937 for "G. G. in C.".

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

Annual accretion deemed to be income received.

58E. The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax.

Provided that, for the purpose of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

Exemption of annual accretion from income-tax.

58F. (*1*) An employee shall not be liable to pay income-tax on contributions to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year [1][or six thousand rupees, whichever is less.]

(*2*) [2][Interest credited on the accumulated balance of any employee in a recognised provident fund shall be exempt from payment of income-tax, if and in so far as it does not exceed one-third of the salary of the employee for the year concerned and] in so far as it is allowed at a rate not exceeding such rate as the [3][Central Government] may, by notification in the [4][Official Gazette], fix in this behalf.

Exemption of accumulated balance from income-tax and super-tax.

58G. [5][(*1*) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the first day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933, had come into force on the 15th March, 1930.]

XVIII of 1933.

[5][(*2*)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax [6]* * * and shall be excluded from the computation of his total income:

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee.

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[1] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 73.

[2] Subs. by s. 73, *ibid.*, for the former words.

[3] Subs. by the A. O. 1937 for "G. G. in C.".

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Sub-section (*1*) was ins. and the former sub-section (*1*) was renumbered (*2*) by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 26.

[6] The words "and super-tax" rep. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 26.

[1][(*3*)] Where exemption from payment of income-tax is not allowed under the provisions of [2][sub-section (*2*)], the Income-tax Officer shall calculate the total of the various sums of income-tax [3][and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable.

Deduction at source of income-tax payable on accumulated balances due.

58H. The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct, therefrom any income-tax payable under [4][sub-section (*3*)] of section 58G and any income-tax and super-tax payable on an employee's total income as determined under sub-section (*3*) of section 58J, and sub-sections (*4*) to (*9*) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head " Salaries ".

Accounts of recognised provident funds.

58I. (*1*) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe.

(*2*) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe.

Treatment of balances in newly recognised provident funds.

58J. (*1*) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe.

(*2*) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-sections (*3*) and (*4*) shall apply thereto.

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter.

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[1] The former sub-section (*2*) was renumbered (*3*) by the Indian Income-tax (Amendment) Act, 1933 (18 of 1933), s. 26.

[2] Subs. by s. 26, *ibid.*, for " sub-section (*1*) ".

[3] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 74 for the former words.

[4] Subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I, for "sub-section (*2*) ".

(*3*) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year ; and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power subject to the said rules, to make a summary calculation of such aggregate.

(*4*) Notwithstanding anything contained in condition (*h*) of sub-section (*1*) of section 58C an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income.

(*5*) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful.

Treatment of fund transferred by employer to trustee.

58K. (*1*) Where an employer who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(*2*) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, [1][if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee], be deemed to be an expenditure by the employer within the meaning of [2][clause (*xii*)] of sub-section (*2*) of section 10, incurred in the year in which the accumulated balance due to the employee is paid.

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 75.

[2] Subs. by s. 75, *ibid.*, for "clause (ix)".

Provisions relating to rules.

58L. (*1*) All rules made under this Chapter shall be subject to the provisions of sub-sections (*4*) and (*5*) of section 59.

(*2*) In addition to any power conferred by this Chapter, the [1][Central Government] may make rules—

(*a*) prescribing the statements and other information to be submitted with an application for recognition ;

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company ;

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund ;

(*d*) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn ; and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as [2][it] may deem requisite.

Application of this Chapter.

58M. This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925, applies.] XIX of 1925.

[3][CHAPTER IXB.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS.

Definitions.

58N. In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) 'approved superannuation fund' means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter ;

(*b*) 'employer', 'employee' and 'contribution' have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds ;

(*c*) 'ordinary annual contribution' means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund.

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[1] Subs. by the A. O. 1937 for "G. G. in C.".

[2] Subs. by the A. O. 1937 for "he".

[3] Chapter IXB was ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 76.

(*Chapter IXB.—Special Provisions relating to certain classes of Superannuation Funds.*)

Approval and withdrawal of approval.

58O. (*1*) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval.

(*2*) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(*3*) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(*4*) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.

Conditions for approval.

58P. In order that a superannuation fund may receive and retain approval, the following conditions shall be satisfied, namely:—

(*a*) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in British India ;

(*b*) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ; and

(*c*) the employer in the trade or undertaking shall be a contributor to the fund:

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

(*i*) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or

(*ii*) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or

(*iii*) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in British India.

Application for approval.

58Q. (*1*) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the

Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Central Board of Revenue may require such further information to be supplied as it thinks proper.

(*2*) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

Exemption of superannuation fund from income-tax.

58R. Income derived from investments or deposits of an approved superannuation fund [1][and any capital gains arising from the sale, exchange or transfer of capital assets of such fund] shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply:

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution:

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of the section, be treated, as the Central Board of Revenue may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper.

Treatment of repaid contributions.

58S. (*1*) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax [2]* * to be income of the employee for that year.

(*2*) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment income-tax on the amount so repaid or paid shall except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax [2]* * during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct.

Deduction from pay of, and contribu-

58T. Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21.

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[1] Ins. by the Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947), s. 15, with effect from 31st March, 1947.

[2] The words "and super-tax" rep. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 5.

tions on behalf of employee to be included in return under section 21.

Liabilities of trustees on cessation of approval of fund.

58U. If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(*a*) on account of returned contributions (including interest on contributions, if any) ; and

(*b*) in commutation or in lieu of annuities ;

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter.

Particulars to be furnished in respect of superannuation funds.

58V. The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice:—

(*a*) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require,

(*b*) prepare and deliver to the Income-tax Officer a return containing—

  (*i*) the name and place of residence of every person in receipt of an annuity from the fund,

  (*ii*) the amount of the annuity payable to each annuitant,

  (*iii*) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees, and

  (*iv*) particulars of sums paid in commutation or in lieu of annuities ;

(*c*) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require.]

CHAPTER X.

MISCELLANEOUS.

Power to make rules.

59. (*1*) The [1][Central Board of Revenue] may, subject to the control of the [2][Central Government], make rules [3]for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

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[1] Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch., for "Board of Inland Revenue".

[2] Subs. by the A. O. 1937 for "G. G. in C.".

[3] For such rules, *see* Gen. R. & O., Vol. V, p. 50.

(*Chapter X.—Miscellaneous.*)

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(*i*) incomes derived in part from agriculture and in part from business ;

[1]* * * * * * *

[1][(*ii*)] persons residing out of ~~British India ;~~ the taxable territories;

(*b*) prescribe the procedure to be followed on applications for refunds ;

(*c*) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920 or under section 49 of this Act ; 10 & 11 Geo. 5, c. 18.

(*d*) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920 ; and 10 & 11 Geo. 5, c. 18.

(*e*) provide for any matter which by this Act is to be prescribed.

[2][(*3*) In cases coming under clause (*a*) of sub-section (*2*), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(*a*) prescribe methods by which an estimate of such income, profits and gains may be made ; and

(*b*) in cases coming under sub-clause (*i*) of clause (*a*) of sub-section (*2*), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax ;

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.]

[3][(*4*)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

[3][(*5*)] Rules made under this section shall be published in the [4][official Gazette], and shall thereupon have effect as if enacted in this Act.

Power to make exemptions, etc.

60. [5][(*1*)] The [6][Central Government] may, by notification[7] in the [4][Official Gazette], make an exemption, reduction in rate or other modifi-

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[1] Original sub-cl. (*ii*) was rep. and sub-cl. (*iii*) was renumbered (*ii*) by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 77.

[2] Sub-section (*3*) was ins. by the Indian Income-tax (Amendment) Act, 1927 (28 of 1927), s. 2.

[3] The original sub-sections (*3*) and (*4*) were renumbered (*4*) and (*5*) respectively by s. 2, *ibid.*

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] The original s. 60 was renumbered as sub-section (*1*) of that section by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 10.

[6] Subs. by the A. O. 1937 for "G. G. in C.".

[7] For such notifications, *see* Gen. R. & O. Vol. V, pp. 80-86.

After section 60 of Act XI of 1922, the following section shall be inserted, namely:
"60A. power to make exemption, etc., in relation to merged territories.- If the Central Govt. considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the merged territories or to any part B State, the Central Govt.may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons: provided that the power conferred by this section shall not be exercisable after the 31st day of March 1955, except for the purpose of rescinding an exemption, reduction or modification already made. XLVIII/68

(*Chapter X.—Miscellaneous.*)

cation, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

[1][(*2*) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, [2][or by reason of his having received in any one financial year salary for more than twelve months], [3][or a payment which is under the provisions of sub-section (*1*) of section 7 a profit in lieu of salary] his income is assessed at a rate higher than that at which it would otherwise have been assessed, the [4][Central Government] may grant [5][the appropriate relief.]]

[6][(*3*) After the commencement of the Indian Income-tax (Amendment) Act, 1939, the power conferred by sub-section (*1*) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made.]

Appearance by authorised representative.

[7][**61.** (*1*) Any assessee, who is entitled or required to attend before [8][the Appellate Tribunal or] any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner, and not being disqualified by or under sub-section (*3*).

(*2*) In this section,—

(*i*) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings ;

(*ii*) "lawyer" means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of Law in British India ;

in the taxable terri-
tories or before the 1st
day of April 1949
in any of the
Part B States
other than the
State of Jammu
& Kashmir

(*iii*) "accountant" means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue ;

(*iv*) "Income-tax practitioner" means—

(*a*) any person who, before the 1st day of April, 1938, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ;

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[1] Added by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 10.

[2] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 27.

[3] Ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 78.

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] Subs. by s. 78, *ibid.*, for "such relief as it may think fit". The word "it" had been subs. by the A. O. 1937 for "he".

[6] Added by Act 7 of 1939, s. 78.

[7] Subs. by s. 79, *ibid.*, for the original section.

[8] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 11.

(*b*) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue ; or

(*c*) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose.

(*3*) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (*1*); and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (*1*):

Provided that—

(*a*) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(*b*) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and

(*c*) no such direction shall take effect until one month from the making thereof or, where an appeal is preferred, until the disposal of the appeal.]

Receipts to be given.

62. A receipt shall be given for any money paid or recovered under this Act.

Service of notices.

63. (*1*) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908.

V of 1908.

(*2*) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or [1][to the] manager, or any adult male member of the family [2][and, in the case of any other [3][association of persons] be addressed to the principal officer thereof].

Place of assessment.

64. (*1*) Where an assessee carries on [4][a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the [4][business, profession or vocation] is carried on in more places than one, by the Income-tax Officer of the area in which [5][the principal place of his business, profession or vocation] is situate.

(*2*) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

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[1] Subs. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I, for "on the".

[2] Added by the Indian Income-tax (Amendment) Act, 1924 (11 of 1924), s. 9.

[3] Subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 80, for "association of individuals".

[4] Subs. by s. 81, *ibid.*, for "business".

[5] Subs. by s. 81, *ibid.*, for "his principal place of business".

(*3*) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the [1][Central Board of Revenue]:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views:

[2][Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (*1*) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (*2*) of section 22 or under section 34 for the making of a return:

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made.]

(*4*) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

[3][(*5*) The provisions of sub-section (*1*) and sub-section (*2*) shall not apply and shall be deemed never at any time to have applied to any assessee—

(*a*) on whom an assessment or re-assessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub-section (*2*) of section 5 is exercising the functions of a Commissioner of Income-tax, or

(*b*) where by [4][any direction given or] any distribution or allocation of work made by the Commissioner of Income-tax under sub-section (*5*) of section 5, [4][or in consequence of any transfer made ~~by him~~ under sub-section (*7a*) of section 5], a particular Income-tax Officer has been charged with the function of assessing that assessee ; or

(*c*) who or whose income is included in a class of persons or a class of incomes specified in any notification issued under sub-section (*6*) of section 5 ;

but the assessment of such person, whether the proceedings for such assessment began before or after the 1st day of April, 1939, shall be made by the Income-tax Officer for the time being charged with the function of mak-

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[1] Subs. by the Central Board of Revenue Act, 1924 (4 of 1924), s. 4 and Sch., for "Board of Inland Revenue".

[2] Added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 81.

[3] Added by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 6.

[4] Ins. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 12.

(Chapter X.—Miscellaneous.)

ing such assessment by the Central Board of Revenue or by the Commissioner of Income-tax to whom he is subordinate, as the case may be.]

Indemnity.

65. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Statement of case by Appellate Tribunal to High Court.

66. [1][(*1*) Within sixty days of the date upon which he is served with notice of an order under sub-section (*4*) of section 33, the assessee or the Commissioner may, by application in the prescribed form, accompanied where application is made by the assessee by a fee of one hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall within ninety days of the receipt of such application draw up a statement of the case and refer it to the High Court:

Provided that, if, in the exercise of its powers under sub-section (*2*), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and, if he does so, the fee paid shall be refunded.

(*2*) If on any application being made under sub-section (*1*) the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition the Appellate Tribunal shall state the case and refer it accordingly.

(*3*) If on any application being made under sub-section (*1*) the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within two months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (*1*).

(*4*) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*5*) The High Court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment].

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[1] Sub-section (*1*) to (*5*) were subs. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 92, for the former sub-sections (*1*), (*2*), (*3*), (*3A*), (*4*) and (*5*).

(*6*) Where a reference is made to the High Court, [1]* * * the costs shall be in the discretion of the Court.

(*7*) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow [2][unless the High Court, on intimation

For sub-section (8) substitute--
(8) For the purposes of this section, 'the High Court' means--
(a) in relation to any part A State, or part B State, the High Court for that State;
(b) in relation to Ajmer and Vindhya Pradesh the High Court at Allahabad;
(c) in relation to Bhopal, the High Court at Nagpur;
(d) in relation to Bilaspur, Delhi and Himachal Pradesh, the High Court of Punjab;
(e) in relation to Coorg, the High Court at Madras
(ee) in relation to Manipur and Tripura, the High Court of Assam;
(f) in relation to Kutch, the High Court at Bombay; and
(g) in relation to the Andaman and Nicobar Islands the High Court at Calcutta.

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Supreme Court

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[8]* * * * *

(*2*) An appeal shall lie to ~~His Majesty in Council~~ the Supreme Court from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to ~~His Majesty in Council.~~ the Supreme court

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[1] The words "on the application of an assessee" rep. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 92.

[2] Added by s. 82, *ibid.*

[3] Ins. by the Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933), s. 28.

[4] Subs. by Act 7 of 1939, s. 92, for "under sub-section (*3*) or sub-section (*3A*)"

[5] Added by the Indian Income-tax (Amendment) Act, 1926 (24 of 1926), s. 7, with effect from 1st April, 1926.

[6] Cl. (a) was rep., with effect from 15th August, 1947, by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

[7] S. 66A was ins. by the Indian Income-tax (Amendment) Act, 1926 (24 of 1926), s. 8, with effect from 1st April, 1926.

[8] The proviso, ins. by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 83, was rep., with effect from 15th August, 1947, by G. G. O. 31, dated 10th December, 1947, *see* Gazette of India, 1947, Extraordinary, p. 1330.

(3) The provisions of the Code of Civil Procedure 1908, relating to appeals to ~~His Majesty in Council~~ the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court: V of 1908.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66:

Provided further that the High Court may, on petition made for the execution of the order of ~~His Majesty in Council~~ the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of ~~His Majesty in Council~~ the Supreme Court in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court.

~~(5) Nothing in this section shall be deemed—~~

~~(*a*) to bar the full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty in Council, or otherwise howsoever ; or~~

~~(*b*) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to His Majesty in Council, or their conduct before the said Judicial Committee.]~~

Bar of suits in Civil Court.

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any [1][officer of the Crown] for anything in good faith done or intended to be done under this Act.

Computation of periods of limitation.

[2][**67A.** In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made and the time requisite for obtaining a copy of such order, shall be excluded.]

Act to have effect pending legislative provision for charge of income-tax.

[3][**67B.** If on the 1st day of April in any year provision has not yet been made by an Central Act of the Indian Legislature for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision ~~in~~ force in the preceding year or the provision proposed in the Bill then before ~~the Legislature~~ Parliament, whichever is more favourable to the assessee, were actually in force.]

68. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

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[1] Subs. by the A. O. 1937 for "Govt. Officer".

[2] S. 67A was ins. by the Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930), s. 12.

[3] S. 67B was ins. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 7.

[1][THE SCHEDULE.

[*See* section 10 (7).]

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS.

1. In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business.

2. The profits and gains of life insurance business shall be taken to be either—

(*a*) the gross external incomings of the preceding year from that business less the management expenses of that year ; or

(*b*) the annual average of the surplus [2][arrived at by adjusting the surplus or deficit] disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, [3]* * * so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a

business, whichever is the greater:

Provided that the amount to be allowed as management expenses shall not exceed—

(*a*) $7\frac{1}{2}$ per cent. of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*

(*b*) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums [4][payable] is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year $7\frac{1}{2}$ per cent. of such first year's premiums received during the preceding year, *plus*

[5][(*c*) 90 per cent. of the first year's premiums received during the preceding year in respect of all other life insurance policies, *plus*

(*d*) 12 per cent of all renewal premiums received during the preceding year.]

3. In computing the surplus for the purpose of rule 2,—

(*a*) one-half of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction:

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[1] The Sch. was added by the Indian Income-tax (Amendment) Act, 1939 (7 of 1939), s. 84.

[2] Ins. by the Income-tax Law Amendment Act, 1940 (12 of 1940), s. 8.

[3] The words "after adjusting such surplus" rep. by s. 8, *ibid.*

[4] Subs. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 14, for "received".

[5] Cls. (c) and (d) were subs. by s. 14, *ibid.*, for the former cl. (c).

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period:

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders one-half of such amount, if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved ;

(*b*) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus:

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the Superintendent of Insurance that having due regard to the necessity for making reasonable provisions for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just ;

[1][(*c*) interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall not be excluded but the whole amount of such interest received during the inter-valuation period shall be exempt from income-tax under the second proviso to section 8 though not from super-tax].

4. Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub-section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

5. For the purposes of these rules—

(*i*) ' preceding year ' means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, imme- IV of 1938.

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[1] Subs. by s. 14, of the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), for the former cl. (*c*).

diately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938 the previous year as defined in section 2 of this Act ; IV of 1938.

(*ii*) ' gross external incomings ' means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities [1][or other assets]:

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last-named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section.

(*iii*) ' management expenses ' means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities [1][or other assets), and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules ;

(*iv*) ' life insurance business ' means life insurance business as defined in clause (*11*) of section 2 of the Insurance Act 1938 ; IV of 1938.

(*v*) ' securities ' includes stocks and shares.

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Superintendent of Insurance after adjusting such balance so as to exclude from it any expenditure, other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business. Profits and losses on the realisation of investments and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance. IV of 1938.

7. The profits and gains of companies carrying on dividing society or

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[1] Ins. by the Indian Income-tax (Amendment) Act, 1944 (11 of 1944), s. 14.

assessment business shall be taken to be 15 per cent. of the premium income of the previous year, or in the case of non-resident companies 15 per cent. of the ~~British Indian~~ premium income of the previous year derived from the taxable territories

8. The profits and gains of ~~the British Indian~~ branches in the taxable territories of an insurance company not resident in British India, in the absence of more reliable data, may be deemed to be the proportion of the total world income of the company corresponding to the proportion which its ~~British Indian~~ premium income derived from the taxable territories bears to its total premium income. For the purpose of this rule, the total world income of life insurance companies not resident in British India whose profits are periodically ascertained by actuarial valuation shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in British India.

9. These rules apply to the assessment of the profits of any business of insurance carried on [1][by a mutual insurance association].]

THE RANCHI MENTAL HOSPITAL ACT, 1922.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Incorporation of Trustees.
4. Constitution of the Board.
5. Initial loan to the Board.
6. Loans to the Board for specific purposes.
7. Other income.
8. Acquisition of land.
9. Establishment.
10. Contributions for pensions, etc.
11. Trustees and servants to be public servants.
12. Returns.
13. Control and supersession of the Board.
14. Dissolution of the Board.
15. [*Repealed.*]
16. Power of the Central Government to make rules.
17. Powers of the Board to make rules.
18. Rules to be made after previous publication.
19. Notice of suits against the Board, etc.
20. Validation.
21. Classification of Hospital.

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[1] Subs. by the Indian Income-tax (Amendment) Act, 1940 (40 of 1940), s. 13, for " by a mutual insurance company ".

ACT NO. XIII OF 1922.[1]

[*29th March, 1922.*]

An Act to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto ; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Ranchi Mental Hospital Act, 1922.

(*2*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Board" means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act ;

(*b*) "the Chairman" means the Chairman of the Board ;

(*c*) "the Hospital" means the European Hospital for mental diseases established at Ranchi in the province of Bihar [5]* * ;

(*d*) "land" means land as defined in section 3 of the Land Acquisition Act, 1894 ; I of 1894.

[6]* * * * *

(*f*) "the Superintendent" means the Superintendent of the Hospital appointed by the [7][Central Government] ; and

(*g*) "Trustee" means a member of the Board.

Incorporation of Trustees.

3. Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called "the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Constitution of the Board.

4. (*1*) The Board shall consist of fourteen Trustees, namely:—

[8][(*a*) a Chairman to be appointed by the Central Government ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 219.

[2] 1st July 1922, *see* Gen. R. & O., Vol. V, p. 87 ; Gazette of India, 1922, Pt. I, p. 748.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] The words "and Orissa" rep. by the A. O. 1937.

[6] Cl. (*e*) rep. by the A. O. 1937.

[7] Subs. by the A. O. 1937 for "L. G.".

[8] Cls. (*a*) and (*b*) subs. by the A. O. 1937 for original cls. (*a*), (*b*), (*c*) and (*d*).

d) one Trustee elected by the association registered under the Indian Companies Act, 1913 (VII of 1913) by the name of the All India Anglo-Indian Association

XLVIII/52

(b) ~~eleven~~ Trustees appointed by the Central Government, of whom four shall represent [1][West Bengal], two the United Provinces, two the [2][East Punjab], two Bihar and one the Central Provinces and Berar ;]

(c) one Trustee elected by the Association ~~Council of the Company which was at the commencement of this Act~~ registered under the Indian Companies Act, 1913, by the name united Kingdom citizens ~~of the European~~ Association ; and VII of 1913.

(f) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

Initial loan to the Board.

5. (*1*) On the date on which this Act comes into force, the [3][Central Government] shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the [3][Central Government] may fix.

(*2*) Any amount which is repaid or is repayable in any year under sub-section (*1*) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3 of the Indian Lunacy Act, 1912, of the lunatics detained in the Hospital in that year. IV of 1912.

Loans to the Board for specific purposes.

6. (*1*) The [3][Central Government] may, on such terms and conditions as [4][it] may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act, and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

(*2*) Save as provided in section 5 and sub-section (*1*), the Board shall not borrow money upon or otherwise charge its funds.

Other income.

7. On and from the date on which the provisions of this Act come into force, all monies payable under the Indian Lunacy Act, 1912, on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board. IV of 1912.

Acquisition of land.

8. [5][The Central Government may, at the request of the Board, cause to be acquired], under the provisions of the Land Acquisition Act, 1894, any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of [6][the expenses incurred by the Central Government on account of, or in connection with, the acquisition], the land shall vest in the Board. I of 1894.

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[1] Subs. by the A. O. 1948 for "Bengal".

[2] Subs. by the A. O. 1948 for "Punjab".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "he".

[5] Subs. by the A. O. 1937 for "The L. G. may, at the request of the Board acquire".

[6] Subs. by the A. O. 1937 for "the compensation awarded under that Act and of the charges incurred by the L. G. in connection with the proceedings".

Establishment.

9. Subject to the provisions of this Act and of any rules made hereunder the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit.

Contributions for pensions, etc.

10. Where any person in the service of [1][the Central Government or any Provincial Government] is appointed as an officer or servant of the Board, the Board shall—

(*a*) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force [2]* * * * regarding contributions towards pensions or gratuities and leave allowances, and

(*b*) if he is employed [3][partly by that Government] and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by [4][that Government].

Trustees and servants to be public servants.

11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Returns.

12. The [5][Central Government] may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay.

Control and supersession of the Board.

13. (*1*) If the [5][Central Government], after such inquiry as it may deem fit, is satisfied—

(*a*) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised or has been performed or exercised in an imperfect, inefficient or unsuitable manner ; or

(*b*) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital ;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the [5][Central Government] for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the [5][Central Government] for the performance of any such duty or for the maintenance of the Hospital, as the case may be ; and the Board shall thereupon comply with such direction.

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[1] Subs. by the A. O. 1937 for "Govt.".

[2] The words "under the provisions of section 96B of the G. of I. Act" rep. by the A. O. 1937.

[3] Subs. by the A. O. 1937 for "partly by Govt.".

[4] Subs. by the A. O. 1937 for "the L. G."

[5] Subs. by the A. O. 1937 for "L. G."

(2) On the failure of the Board to comply with any such direction, the [1][Central Government] or any person appointed by the [1][Central Government] in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the [1][Central Government] may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(3) On the repeated failure of the Board to comply with such directions or if the Board otherwise exceeds or abuses its powers, the [1][Central Government] may, [2][by notification in the Official Gazette], declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(4) When the Board is superseded under the provisions of sub-section (3)—

(a) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees ;

(b) all powers and duties of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the [1][Central Government] may appoint in this behalf ;

(c) all funds and other property vested in the Board shall, during the period of supersession, [3][vest in ~~His Majesty for the purposes of~~ the Central Government] ; and

(d) before the expiration of the period of supersession, elections shall be held and appointments made for the purpose of reconstituting the Board.

[4]* * * * *

Dissolution of the Board.

[5][**14.** The Central Government may by notification in the Official Gazette declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and on the making of such a declaration, all funds and other property vested in the Board shall vest in ~~His Majesty~~ for the ~~purposes of~~ the Central Government.]

15. [*Power of the Governor General in Council to make rules.*] *Rep. by the A. O. 1937.*

Power of the Central Government to make rules.

16. (1) The [6][Central Government] may [7]* * * * make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the fore-

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[1] Subs. by the A. O. 1937 for " L. G."

[2] Subs. by the A. O. 1937 for " with the previous sanction of the G. G. in C., by notification in the Gazette of India and in the B. & O. Gazette ".

[3] Subs. by the A. O. 1937 for " vest in the L. G. on behalf of His Majesty ".

[4] Sub-section (5) rep. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for the original section.

[6] Subs. by the A. O. 1937 for " L. G."

[7] The words " subject to rules made under section 15 " rep. by the A. O. 1937.

going powers, such rules may provide for all or any of the following matters, namely:—

(*a*) for fixing the minimum number of meetings of the Board during any year ;

(*b*) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the [1][Central Government] or to any other specified authority ;

(*c*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed ;

(*d*) for sanctioning works in connection with the Hospital, and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimates shall be sanctioned ;

(*e*) for the procedure to be observed in calling for and considering tenders ;

(*f*) for requiring the preparation of schedules of the staff of officers and servants of the Board ;

(*g*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants ;

(*h*) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;

(*i*) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board ;

(*j*) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than [2][servants of the ~~Crown~~ Govt] whose services have been lent or transferred to the Board ;

(*k*) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "Govt. servants".

(*l*) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure ;

(*m*) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts ;

(*n*) for prescribing the manner in which payments are to be made by or on behalf of the Board, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed ; [1]*

(*o*) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested ;

[2][(*p*) the qualifications for being appointed a Trustee ;

(*q*) the circumstances in which and the authority by which any Trustee may be removed ;

(*r*) the filling of any vacancy in the office of a Trustee, whether temporarily or otherwise ;

(*s*) the term of office of Trustees ; and

(*t*) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.]

Powers of the Board to make rules.

17. Subject to any rules made under [3][section 16], the Board may, with the previous sanction of the [4][Central Government], make rules[5] to provide for all or any of the following matters, namely:—

(*a*) for the constitution of a Managing Committee and the delegation thereto of any powers exercisable under this Act by the Board ;

(*b*) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein ;

(*c*) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings ;

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[1] The word "and" rep. by the A. O. 1937.

[2] Ins. by the A. O. 1937. For rules made under the original s. 15, which corresponded to these clauses, *see* Gen. R. & O., Vol. V, p. 87.

[3] Subs. by the A. O. 1937 for "sections 15 and 16".

[4] Subs. by the A. O. 1937 for "L. G."

[5] For rules framed by the Board, *see* Gazette of India, 1923, Pt. I, p. 851.

(*d*) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded ;

(*e*) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability ;

(*f*) for determining the contribution, if any, payable from the funds of the Board to the provident fund ;

(*g*) for regulating generally all matters incidental to the provident fund and the investment thereof ; and

(*h*) for defining the powers and duties of the Secretary of the Board.

Rules to be made after previous publication.

18. All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the [1][Official Gazette] [2]* * * *, and on such publication shall have effect as if they were enacted in this Act.

Notice of suits against the Board, etc.

19. No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left.

Validation.

20. No act done or proceedings taken under this Act shall be questioned on the ground merely of—

(*a*) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee ; or

(*b*) any person having ceased to be a Trustee ; or

(*c*) any omission, defect or irregularity not affecting the merits of the case.

Classification of Hospital.

IV of 1912.

21. For all the purposes of the Indian Lunacy Act, 1912, the Hospital shall be deemed to be an asylum established by the [3][Central Government].

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[1] Subs. by the A. O. 1937 for "Gazette of India".
[2] The words "and in the B. & O. Gazette" rep. by the A. O. 1937.
[3] Subs. by the A. O. 1937 for "Govt.".

THE POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922.

ACT NO. XXII OF 1922.[1]

[5th October, 1922.]

An Act to provide a penalty for spreading disaffection among the police and for kindred offences.

WHEREAS it is expedient to penalize the spreading of disaffection among the police and other kindred offences ; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Police (Incitement to Disaffection) Act, 1922.

(*2*) It extends to [2][all the whole ~~Provinces~~ of India], ~~including~~ [3]* * ~~the Sonthal Parganas.~~ except Part B States

(*3*) It shall come into force in any Province or part of a Province on such date[4] as the [5][Provincial Government] may, by notification in the [6][Official Gazette], direct.

Definitions.

2. In this Act, the expression " member of a police-force " means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule.

Penalty for causing disaffection, etc.

3. Whoever intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection towards His Majesty or the Government established by law in [7][India] amongst the members of a police-force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.—Expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

Saving of acts done by police

4. Nothing shall be deemed to be an offence under this Act which is done in good faith—

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 62, and for Report of Select Committee, *see ibid.*, 1922, Pt. V, p. 253.

[2] Subs. by the A. O. 1948 for " the whole of British India ".

[3] The words " British Baluchistan and " rep. by the A. O. 1948.

[4] This Act came into force in Assam from 25th January, 1923, *see* Assam Gazette, 1923, Pt. II, p. 113 ; in the Punjab from 13th March, 1930, *see* Punjab Gazette, 1930, Pt. I, p. 342 ; in B. & O. (including the Sonthal Parganas) from 15th May, 1930, *see* B. & O. Gazette, Extraordinary, dated 13th May, 1930 ; and in the Bombay Presidency from 5th June, 1930, *see* Bom. Gazette, 1930, Pt. I, p. 1394. The Act has also been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[5] Subs. by the A. O. 1937 for " L. G."

[6] Subs. by the A. O. 1937 for " local official Gazette ".

[7] Subs. by the A. O. 1948 for " British India or British Burma ". The words " or British Burma " had been ins. by the A. O. 1937.

(*a*) for the purpose of promoting the welfare or interests of any member of a police-force by inducing him to withhold his services in any manner authorised by law ; or

(*b*) by or on behalf of any association formed for the purpose of furthering the interests of members of a police-force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government.

associations and other persons for certain purposes.

Sanction to trial of offences by subordinate Courts.

5. No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate or, in the case of a Presidency-town [1]* * * *, of the Commissioner of Police.

Trial of cases.

6. (*1*) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

V of 1898.

(*2*) Notwithstanding anything contained in Chapter XXII of the Code of Criminal Procedure, 1898, no offence under this Act shall be triable summarily.

THE SCHEDULE.

(*See section 2.*)

Year.	No.	Short title.
		Acts of the Governor General in Council.
1859	XXIV	The Madras District Police Act, 1859.
1861	V	The Police Act, 1861.
[2]*	*	* * *
1888	III	The Police Act, 1888.
1892	V	The Bengal Military Police Act, 1892.
		Madras Act.
1888	III	The Madras City Police Act, 1888.
		Bombay Acts.
1890	IV	The Bombay District Police Act, 1890.
1902	IV	The City of Bombay Police Act, 1902.
		Bengal Acts.
1866	II	The Calcutta Suburban Police Act, 1866.
,,	IV	The Calcutta Police Act, 1866.
1890	III	The Calcutta Port Act, 1890.
1920	II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920.
		Burma Act.
[3]*		* * *
		Assam Act.
1920	I	The Assam Rifles Act, 1920.
		Regulation by the Governor General in Council.
1888	II	The Andaman and Nicobar Islands Military Policy Regulation, 1888.

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[1] The words "or the town of Rangoon" rep. by the A. O. 1937.

[2] The entry relating to the Burma Military Police Act, 1887 (15 of 1887), rep. by the A. O. 1948.

[3] The entry relating to the Rangoon Police Act, 1899 (Burma 4 of 1899), rep. by the A. O. 1948.

THE INDIAN STATES (PROTECTION AGAINST DISAFFECTION) ACT, 1922.[1]

[*12th March, 1923.*]

An Act to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, [2][~~Rulers of Acceding States and~~ other Indian States] ~~or~~ the Governments of Part B ~~Administrations established in such~~ States.

WHEREAS it is expedient to prevent the dissemination by means of books, newspapers and other documents of matter calculated to bring into hatred or contempt, or to excite disaffection against, [2][~~Rulers of Acceding States and other Indian States~~] ~~or~~ the Governments of Part B ~~of Administrations established in such~~ States; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian States (Protection against Disaffection) Act, 1922.

(*2*) It extends to [3][~~all~~ the Whole ~~Provinces~~ of India], ~~including~~ [4]* * ~~the Sonthal Parganas.~~ Except Part B States

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "book" and "newspaper" have the meanings respectively assigned to them by the Press and Registration of Books Act, 1867; XXV of 1867.

(*b*) "disaffection" includes disloyalty and all feelings of enmity; and

(*c*) "document" includes any painting, drawing, photograph, or other visible representation.

Penalty.

3. (*1*) Whoever edits, prints or publishes, or is the author of, any book, newspaper or other document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards, [5][~~the Ruler of any Acceding State or other Indian State~~] ~~or~~ the Government of Part B State ~~Administration established~~ in any such State, shall be punishable with imprisonment which may extend to five years, or with fine, or with both.

(*2*) No person shall be deemed to commit an offence under this section in respect of any book, newspaper or other document which, without exciting or being intended to excite hatred, contempt or disaffection, contains comments expressing disapprobation of the measures of any such

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[1] This Act was made by the Governor General under the provisions of s. 67B of the G. of I. Act.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been declared to be in force in the Khondmals District by the Khondmals Laws (Amendment) Regulation, 1937 (9 of 1937), s. 7, and in the Angul District by the Angul Laws (Amendment) Regulation, 1937 (10 of 1937), s. 6.

[2] Subs. by the A. O. 1948 for "Princes or Chiefs of States in India".

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "British Baluchistan and" rep. by the A. O. 1948.

[5] Subs. by the A. O. 1948 for "any Prince or Chief of a State in India".

[6] Subs. by the A. O. 1948 for "Prince, Chief".

[1]~~[Ruler]~~, Government ~~or Administration~~ as aforesaid with a view to obtain their alteration by lawful means, or disapprobation of the administrative or other action of any such [1][Ruler], Government or Administration.

Power to forfeit certain publications or to detain them in course of transmission through post.

V of 1898.
VI of 1898.

4. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, shall apply in the case of any book, newspaper or other document containing matter in respect of which any person is punishable under section 3 in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections.

Courts by which and conditions subject to which offence may be tried.

5. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall proceed to the trial of any offence under section 3, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the [2][Provincial Government].

THE COTTON TRANSPORT ACT, 1923.

ACT NO. III OF 1923.[3]

[23rd February, 1923.]

An Act to provide for the restriction and control of the transport of cotton in certain circumstances.

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in [4][the Provinces] to enable the restriction and control of the transport by rail and the import of cotton into those areas ; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Cotton Transport Act, 1923.

(*2*) It extends to [5][all the Provinces of India].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

I of 1872.

(*a*) "certified copy", in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872, by the authority by which the licence was granted ;

(*b*) "cotton" means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed ;

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[1] Subs. by the A. O. 1948 for "Prince, Chief".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 213 ; and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 1.
This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).
[4] Subs. by the A. O. 1948 for "British India".
[5] Subs. by the A. O. 1948 for "the whole of British India".

(*c*) " cotton waste " means droppings, strippings, fly and other waste products of a cotton-mill other than yarn waste ;

(*d*) " licence " means a licence granted under this Act ;

(*e*) " notified station " means a railway station specified in a notification under section 3 ;

(*f*) " prescribed " means prescribed by rules made under this Act ; and

(*g*) " protected area " means an area into which the import of cotton or of any kind of cotton has been prohibited [1][wholly or partly] by a notification under section 3.

Power to issue notification prohibiting import of cotton into protected area.

3. (*1*) The [2][Provincial Government] may, for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the [3][Official Gazette], prohibit the import of cotton or of any specified kind of cotton into that area [4][by rail, road, river and sea, or by any one or more of such routes] save under, and in accordance with the conditions of, a licence:

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight.

(*2*) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which [4][by rail] into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import [4][by rail] of the cotton into that area.

Refusal to carry unlicensed cotton.

4. (*1*) Notwithstanding anything contained in the Indian Railways Act, 1890, or any other law for the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence for the import of the cotton [5][by rail] into the protected area in which such notified station is situated.

IX of 1890.

(*2*) Every certified copy of a licence when so produced shall be attached to the invoice or way-bill, as the case may be, and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

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[1] Ins. by the Cotton Transport (Amendment) Act, 1925 (34 of 1925), s. 2.
[2] Subs. by the A. O. 1937 for " L. G."
[3] Subs. by the A. O. 1937 for " local official Gazette ".
[4] Ins. by Act 34 of 1925, s. 3.
[5] Ins. by s. 4, *ibid.*

(*3*) Where by or under any law in force in the territories of any State in India the import [1][by rail] into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the [2][Central Government] may, by notification[3] in the [4][Official Gazette], declare that the provisions of sub-section (*1*) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

Procedure where cotton arrives at notified station.

5. (*1*) Where any cotton, the import of which [5][by rail] into any protected area has been prohibited, has been consigned to and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton [5][by rail] into the protected area in which such notified station is situated; and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

(*2*) Any station master or other railway servant receiving any cotton returned under sub-section (*1*), or returned with a like intimation from a railway station specified in a notification under sub-section (*3*) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890, a notice stating that the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

IX of 1890

Penalties.

6. Any person who, in contravention of the provisions of this Act or of any notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station master or other railway servant who, in contravention of the provisions of sub-section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

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[1] Ins. by the Cotton Transport (Amendment) Act, 1925 (34 of 1925), s. 4.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] For such notifications *see* Gen. R. & O., Vol. V, p. 90; *ibid.*, Supplementary Vol. II, p. 998; and *ibid.*, Supplementary Vol. VI, p. 457.

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Ins. by Act 34 of 1925, s. 5.

Power to make rules.

7. (1) The [1][Provincial Government] may, by notification in the [2][Official Gazette], make rules to provide for any of the following matters, namely:—

(a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited [3][wholly or partly] by a notification under section 3;

(b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and

(c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to ten thousand ~~five hundred~~ rupees.

Previous approval of Provincial Legislature to issue of notifications and rules.

8. No notification under section 3 or rule under section 7 shall be issued by the [1][Provincial Government] of any Governor's Province, unless it has been laid in draft before [4][the Legislative Assembly of the Province], and has been approved by a Resolution [5][of that Assembly] either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved:

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[6][Provided that if the Provincial Legislature has two ~~Chambers~~ Houses, the notification must be laid in draft before, and be approved by Resolutions of, both ~~Chambers,~~ Houses either without modifications or additions, or with modifications or additions approved by both ~~Chambers~~.] Houses

Protection for acts done under Act.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "local official Gazette".
[3] Ins. by the Cotton Transport (Amendment) Act, 1925 (34 of 1925), s. 6.
[4] Subs. by the A. O. 1937 for "the Legislative Council of the Province".
[5] Subs. by the A. O. 1937 for "of the Legislative Council".
[6] Ins. by the A. O. 1937.

Repealed by XXXV/52

THE INDIAN MINES ACT, 1923.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. [*Repealed.*]
3. Definitions.

CHAPTER II.

INSPECTORS.

4. Chief Inspector and Inspectors.
5. Functions of Inspectors.
6. Powers of Inspectors of Mines.
7. Powers of special officer to enter, measure, etc.
8. Facilities to be afforded to Inspectors.
9. Secrecy of information obtained.

CHAPTER III.

MINING BOARD AND COMMITTEES.

10. Mining Boards.
11. Committees.
12. Powers of Mining Boards.
13. Recovery of expenses.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

14. Notice to be given of mining operations.
15. Managers.
16. Duties and responsibilities of owners, agents and managers.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

17. Conservancy.
18. Medical appliances.

SECTIONS.

19. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.
20. Notice to be given of accidents.
21. Power of Government to appoint court of inquiry in cases of accidents.
22. Publication of reports.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

22A. Weekly day of rest.
22B. Hours of work above ground.
22C. Hours of work below ground.
22D. Special provision for night relays.
23. Prohibition of employment of certain persons.
23A. [*Repealed.*]
23B. Notices regarding hours of work.
24. Supervising staff.
25. Exemption from provisions regarding employment.
26. Children.
26A. Young persons not to be allowed underground without certificates of fitness.
27. Disputes as to age.
28. Register of employees.

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

29. Power of Central Government to make regulations.
30. Power of Central Government to make rules.
30A. Power of Central Government to require rescue stations to be established.
31. Prior publication of regulations and rules.
31A. Power to make regulations without previous publication.
32. Bye-laws.
33. Posting up of extracts from Act, regulations, etc.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

34. Obstruction.
35. Falsification of records, etc.

SECTIONS.
36. Omission to furnish plans, etc.
37. Contravention of provisions regarding employment of labour.
38. Notice of accidents.
39. Disobedience of orders.
40. Contravention of law with dangerous results.
41. Prosecution of owner, agent or manager.
42. Limitation of prosecutions.
43. Cognizance of offences.
44. Reference to Mining Board or Committee in lieu of prosecution in certain cases.

CHAPTER IX.

MISCELLANEOUS.

45. Decision of question whether a mine is under this Act.
46. Power to exempt from operation of Act.
47. Power to alter or rescind orders.
48. Application of Act to Crown Mines.
49. Saving.
50. [*Repealed.*]

SCHEDULE.—[*Repealed.*]

Repealed by XXXV/52

ACT NO. IV OF 1923[1].

[*23rd February, 1923.*]

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Mines Act, 1923.

(*2*) It extends[2] to [3][~~all~~ the ~~Provinces~~ whole of India], ~~including~~ [4]* * ~~the~~ ~~Sonthal~~ Parganas except The ~~State~~ of Jammu & Kashmir

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 327 ; and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 25.

[2] This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words 'British Baluchistan and" rep. by the A. O. 1948.

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(3) It shall come into force on the first day of July, 1924.

2. [*Saving of Reg. XII of 1887.*] *Rep. by the A. O. 1937.*

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " agent ", when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act ;

(*b*) " Chief Inspector " means the Chief Inspector of Mines appointed under this Act ;

[1][(*c*) " child " means a person who has not completed his fifteenth year ;]

[2][(*cc*) " day " means a period of twenty-four hours beginning at midnight ;]

[3][([4]*ccc*) " District Magistrate " means, in a Presidency-town, the person appointed by the [5][Central Government] to perform the duties of a District Magistrate under this Act in that town ;]

(*d*) a person is said to be " employed " in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations ;

(*e*) " Inspector " means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform ;

(*f*) " mine " means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on. and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine:

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals ;

(*g*) " owner ", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

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[1] Subs. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 2, for the original clause.

[2] Ins. by s. 2, *ibid.*

[3] Ins. by the Indian Mines (Amendment) Act, 1931 (21 of 1931), s. 2.

[4] The original cl. (*cc*) was re-lettered (*ccc*) by Act 5 of 1935, s. 2.

[5] Subs. by the A. O. 1937 for " L. G."

XXXV/52

(*h*) "prescribed" means prescribed by regulations, rules or bye-laws;

21 & 22 Vict., c. 9.

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any ~~Act of~~ [1][~~the Central Legislature or of any Legislature in a Province of India~~] providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the [2][Central Government], by notification in the [3][Official Gazette], to be a qualified medical practitioner for the purposes of this Act;

Central Act, Provincial Act, or a State Act

(*j*) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

[4][(*jj*) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay";]

(*k*) "serious bodily injury" means any injury which involves, or in all probability will involve, the permanent loss of the use of, permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and

(*l*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

CHAPTER II.

INSPECTORS.

Chief Inspector and Inspectors.

4. The [5][Central Government] may, by notification in the [6][Official Gazette], appoint a duly qualified person to be Chief Inspector of Mines the territories to which this Act applies

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[1] Subs. by the A. O. 1948 for "any Legislature in British India".
[2] Subs. by the A. O. 1937 for "L. G."
[3] Subs. by the A. O. 1937, for "local official Gazette".
[4] Ins. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 2.
[5] Subs. by the A. O. 1937 for "G. G. in C."
[6] Subs. by the A. O. 1937 for "Gazette of India".

for [1]~~[all the Provinces of India]~~, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

xxxv/52

(*2*) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(*3*) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the [2][Central Government]:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(*4*) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Functions of Inspectors.

5. (*1*) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(*2*) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (*1*) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

Powers of Inspectors of Mines.

6. The Chief Inspector and any Inspector may—

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(*b*) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(*c*) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in

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[1] Subs. by the A. O. 1948 for "the whole of British India".
[2] Subs. by the A. O. 1937 for "L. G."

XXXL/52

force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

Powers of special officer to enter, measure, etc.

7. Any person in the service of the [1][Crown] duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine.

Facilities to be afforded to Inspectors.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

Secrecy of information obtained.

9. (*1*) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential, [2][and shall not be disclosed to any person other than a Magistrate or an official superior or the owner, agent or manager of the mine concerned, unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the safety of any persons.]

(*2*) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (*1*) discloses, [3][contrary to the provisions of sub-section (*1*)], any such information as aforesaid without the consent of [4][the Central Government], he shall be guilty of a breach of official trust, and shall be punishable [5][with imprisonment for a term which may extend to one year, or with fine, or with both.]

(*3*) No Court shall proceed to the trial of any offence under this section, [6][except with the previous sanction of the Central Government.]

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[1] Subs. by the A. O. 1937 for "Govt."

[2] Ins. by the Indian Mines (Amendment) Act, 1937 (29 of 1937), s. 3.

[3] Subs. by s. 3, *ibid.*, for "to any one other than a Magistrate or an officer to whom he is subordinate".

[4] Subs. by the A. O. 1937 for "the G. G. in C. or of the L. G."

[5] Subs. by the Repealing and Amending Act, 1925 (37 of 1925), s. 2 and Sch. I, for "in the manner provided by s. 4 of the Official Secrets Act, 1889."

[6] Subs. by Act 29 of 1937, s. 3, for the original words as amended by the A. O. 1937.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

mines to which
this Act applies

xxxv/52

Mining Boards.

10. (*1*) The [1][Central Government] may constitute [2][for any part of [3][the ~~Pro~~vinces]], or for any group or class of mines [4]* * *, a Mining Board consisting of—

(*a*) a person in the service of [5][the Crown], not being the Chief Inspector or an Inspector, nominated by the [1][Central Government] to act as chairman ;

(*b*) the Chief Inspector or an Inspector ;

[6][(*c*) a person, not being the Chief Inspector or an Inspector, nominated by the [1][Central Government] ;]

(*d*) two persons nominated by owners of mines or their representatives in such manner as may be prescribed ;

[7][(*e*) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions:—

(*i*) if there are one or more registered trade unions having in the aggregate as members not less than one quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed ;

(*ii*) if sub-clause (*i*) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than 1,000 miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the [1][Central Government].

(*iii*) if neither sub-clause (*i*) nor sub-clause (*ii*) is applicable, the said persons shall be nominated by the [1][Central Government].

Explanation.—In this clause "miner" means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.]

(*2*) The chairman shall appoint a person to act as secretary to the Board.

(*3*) The [1][Central Government] may give directions as to the payment of travelling expenses incurred by the secretary or any member of any

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "for the province, or for any part of the province".

[3] Subs. by the A. O. 1948 for "British India".

[4] The words "in the province" rep. by the A. O. 1937.

[5] Subs. by the Indian Mines (Amendment) Act, 1940 (24 of 1940), s. 2, for "the Govt.".

[6] Subs. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 3, for the original clause.

[7] Ins. by s. 3, *ibid.*

XXXC/52

such Mining Board in the performance of his duty as such secretary or member.

Committees.

11. (*1*) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the [1][Central Government] or by such officer or authority as the [1][Central Government] may authorise in this behalf ;

(*b*) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee ; and

(*c*) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the [1][Central Government] to represent the interests of the persons employed in the mine.

(*2*) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*3*) Where an owner, agent or manager fails to exercise his power of nomination under clause (*c*) of sub-section (*1*), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(*4*) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the [1][Central Government].

(*5*) On receiving such report the [1][Central Government] shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the [1][Central Government] may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(*6*) The [1][Central Government] may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

Powers of Mining Boards.

12. (*1*) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

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[1] Subs. by the A. O. 1937 for "L. G."

X X XV/52

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

V of 1908.

XLV of 1860.

Recovery of expenses.

13. The [1][Central Government] may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such [2][owner or agent].

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

Notice to be given of mining operations.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

Managers.

15. (*1*) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

(*2*) If any mine is worked without there being a manager for the mine as required by sub-section (*1*), the owner and agent shall each be deemed to have contravened the provisions of this section.

Duties and responsibilities of owners, agents and managers.

16. (*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the Repealing and Amending Act, 1925 (37 of 1925), s. 2 and Sch. I, for "owner, agent or manager".

x x XV/52

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

(*a*) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine ; and

(*b*) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties ; and

(*c*) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

Conservancy.

17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances.

18. At every mine in respect of which the [1][Central Government] may, by notification in the [2][Official Gazette], declare this section to apply, such supply of ambulances or stretchers and of splints, bandages and other medical requirements, as may be prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.

19. (*1*) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

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[1] Subs. by the A. O. 1937 for " L. G."

[2] Subs. by the A. O. 1937 for " local official Gazette ".

(*Chapter V.—Provisions as to Health and Safety.*)

[1][(*1A*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the Chief Inspector or the Inspector may, in any area to which the [2][Central Government] may by notification[3] in the [4][Official Gazette] declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mine,—

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[5]* prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire ; [6]*

[7]* * * * *

and the provisions of sub-sections (*3*), (*4*), (*5*) and (*6*) shall apply to an order made under this sub-section as they apply to an order made under sub-section (*2*).]

(*2*) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(*3*) Where an order has been made under sub-section (*2*) by an inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(*4*) The Chief Inspector or the Inspector making a requisition under sub-section (*1*) or an order under sub-section (*2*), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (*3*), shall forthwith report the same to the [8][Central Government] and shall inform the owner, agent or manager of the mine that such report has been so made.

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[1] Sub-section (*1a*) was ins. by the Indian Mines (Amendment) Act, 1936 (11 of 1936), s. 2.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] For notification applying sub-section (*1a*) to Jheria Coal-field and to Raniganj Coal-field, *see* Gazette of India, 1936, Pt. I, p. 575 and *ibid.*, 1936, Pt. I, p. 1638, respectively.

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] The brackets and letter "(*a*)" rep. by the Indian Mines (Amendment) Act, 1940 (24 of 1940), s. 3.

[6] The word "or" rep. by s. 3, *ibid.*

[7] Cl. (*b*) which read "limit to such dimensions as he considers reasonable the galleries that may be driven in the mine" rep. by s. 3, *ibid.*

[8] Subs. by the A. O. 1937 for "L. G."

xxx 4/52

(*5*) If the owner, agent or manager of the mine objects to a requisition made under sub-section (*1*) or to an order made by the Chief Inspector under sub-section (*2*), or sub-section (*3*), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the [1][Central Government], which shall refer the same to a Committee.

(*6*) Every requisition made under sub-section (*1*), or order made under sub-section (*2*), or sub-section (*3*) to which objection is made under sub-section (*5*), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (*1*) pending its decision on the objection.

V of 1898.

(*7*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

Notice to be given of accidents.

20. [2][(*1*)] When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

[3][(*2*) The [1][Central Government] may, by notification in the [4][Official Gazette], direct that accidents other than those specified in sub-section (*1*) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (*1*).

(*3*) A copy of the entries in the register referred to in sub-section (*2*) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.]

Power of Government to appoint court of inquiry in case of accidents.

21. (*1*) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the [1][Central Government], if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] The original s. 20 was re-numbered as sub-section (*1*) of that section by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 4.

[3] Ins. by s. 4, *ibid.*

[4] Subs. by the A. O. 1937 for "local official Gazette".

XXV/52

(*2*) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects ; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code. V of 1908. XLV of 1860.

(*3*) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(*4*) The person holding an inquiry under this section shall make a report to the [1][Central Government] stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

Publication of reports.

22. The [1][Central Government] may cause any report submitted by a Committee under section 11, [2][and shall cause every report submitted] by a court of inquiry under section 21, to be published at such time and in such manner as it may think fit.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

Weekly day of rest.

[3][**22A.** No person shall be allowed to work in a mine on more than six days in any one week.

Hours of work above ground.

22B. (*1*) A person employed above ground in a mine shall not be allowed to work for more than fifty-four hours in any week or for more than ten hours in any day.

(*2*) The periods of work of any such person shall be so arranged that, along with his intervals for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than six hours before he has had an interval for rest of at least one hour.

(*3*) Persons belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that for the purposes of this sub-section persons shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

Hours of work below ground.

22C. (*1*) A person employed below ground in a mine shall not be allowed to work for more than nine hours in any day.

(*2*) Work of the same kind shall not be carried on below ground in any mine for a period spreading over more than nine hours in any day

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 5, for "or"

[3] Sections 22A to 22D were ins. by s. 6, *ibid*.

X+X C/52

except by a system of relays so arranged that the periods of work for each relay are not spread over more than nine hours.

(3) No person employed in a mine shall be allowed to be in any part of the mine below ground except during the periods of work shown in respect of him in the register kept under sub-section (1) of section 28.

Special provision for night relays.

22D. Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.]

Prohibition of employment of certain persons.

[1][**23.** No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.]

23A. *[Limitation of working hours.] Ins. by the Indian Mines (Amendment) Act, 1928 (XIII of 1928), s. 3; Rep. by the Indian Mines (Amendment) Act, 1935 (V of 1935), s. 8.*

Notices regarding hours of work.

[2][**23B.** (1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of [3][relays], the time of the commencement and of the end of work for each [4][relay]. [5][The notice shall also state the time of the commencement and of the end of the intervals for rest fixed for persons employed above ground.] A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any [4][relay or in the rest intervals fixed for persons employed above ground], an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change [6]* * *.]

[5][(4) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).]

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[1] Subs. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 7, for the original section.

[2] Ins. by the Indian Mines (Amendment) Act, 1928 (13 of 1928), s. 3.

[3] Subs. by Act 5 of 1935, s. 9, for "shifts".

[4] Subs. by s. 9, *ibid.*, for "shift".

[5] Ins. by s. 9, *ibid.*

[6] The words "if he so requires or if the original notice was sent to him" rep. by s. 9, *ibid.*

xxxv/52

(*Chapter VI.—Hours and Limitation of Employment.*)

Supervising staff.

24. Nothing in [1][section 22A, section 22B, section 22C, section 23, or sub-section (*4*) of section 23B] shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

Exemption from provisions regarding employment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of [2][section 22A, section 22B, section 22C, section 23, or sub-section (*4*) of section 23B] on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Young persons not to be allowed underground without certificates of fitness.

[3][**26A.** No person who has not completed his seventeenth year shall be allowed to be present in any part of a mine which is below ground, unless—

(*a*) a certificate of fitness in the prescribed form and granted to him by a qualified medical practitioner is in the custody of the manager of the mine, and

(*b*) he carries while at work a token giving a reference to such certificate.]

Disputes as to age.

27. (*1*) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child [4][or has not completed his seventeenth year], the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(*2*) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (*1*) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of employees.

[5][**28.** (*1*) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing, in respect of each such person,—

(*a*) the nature of his employment,

(*b*) the periods of work fixed for him,

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[1] Subs. by s. 10 of the Indian Mines (Amendment) Act, 1935 (5 of 1935), for "s. 23 or s. 23A".

[2] Subs. by s. 11, *ibid.*, for "s. 23 or 23A".

[3] Ins. by s. 12, *ibid.*

[4] Ins. by s. 13, *ibid.*

[5] Subs. by s. 14, *ibid.*, for the original section.

X X X U/52

(*c*) the intervals for rest, if any, to which he is entitled,

(*d*) the days of rest to which he is entitled, and

(*e*) where work is carried on by a system of relays, the relay to which he belongs.

(*2*) The entries in the register prescribed by sub-section (*1*) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(*3*) No person shall be employed in a mine until the particulars required by sub-section (*1*) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(*4*) For every mine to which the [1][Central Government] may, by general or special order, declare this sub-section to be applicable, there shall be kept in the prescribed form and place a register which shall show at any moment the name of every person then working below ground in the mine.]

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

Power of Central Government to make regulations.

29. The [2][Central Government] may, by notification in the [3][Official Gazette], make regulations[4] consistent with this Act for all or any of the following purposes, namely:—

(*a*) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector ;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act ;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them ;

(*d*) for prescribing the qualifications of managers of mines and of persons acting under them ;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency ;

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "Gazette of India".

[4] For the Indian Coal Mines Regulations, 1926, *see* Gen. R. & O., Supplementary Vol. II, p. 1000 ; for the Indian Metalliferous Mines Regulations, 1926, *see ibid.*, Supplementary Vol. II, p. 1047 ; for the Indian Oil Mines Regulations, 1933, *see ibid.*, Supplementary Vol. III, p. 494 ; for Regulations for prohibiting the employment of women underground in mines, *see ibid.*, Supplementary, Vol. VI, p. 459 ; and for the Coal Mines (Temporary) Regulations, 1936, *see ibid.*, Supplementary Vol. VI, p. 460.

(*Chapter VII.—Regulations, Rules and Bye-laws.*)

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates ;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications ;

x x x u/52

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency ;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives ; IV of 1884.

(*j*) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women ;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences ;

[1][(*kk*) for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine ;]

(*l*) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine ;

(*m*) for providing for [2][and regulating] the ventilation of mines and the action to be taken in respect of dust and noxious gases ;

(*n*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes ;

(*o*) for requiring and regulating the use of safety lamps in mines ;

[3][(*p*) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines ;]

(*q*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons

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[1] Ins. by the Indian Mines (Amendment) Act, 1940 (24 of 1940), s. 4.
[2] Ins. by the Indian Mines (Amendment) Act, 1936, (11 of 1936), s. 3.
[3] Subs. by s. 3, *ibid.*, for the original clause.

XXXV/52

employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted ;

(*r*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record ;

(*s*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines ;

(*t*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14 ; and

(*u*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work or classes of public works which the [1][Central Government] may, by general or special order, specify in this behalf.

IX of 1890.

Power of Central Government to make rules.

30. The [1][Central Government] may, [2]* * * by notification in the [3][Official Gazette], make rules consistent with this Act for all or any of the following purposes, namely:—

(*a*) for providing for the appointment of chairmen and members of Mining Boards ,and for regulating the procedure of such Boards ;

[4][(*aa*) for prescribing the form of the register referred to in sub-section (2) of section 20 ;]

(*b*) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned ;

[5][(*bb*) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein ;]

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[1] Subs. by the A. O. 1937 for "L. G."
[2] The words "subject to the control of the G. G. in C." rep. by the A. O. 1937.
[3] Subs. by the A. O. 1937 for "local official Gazette".
[4] Ins. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 15.
[5] Ins. by the Mines (Amendment) Ordinance, 1945 (17 of 1945), s. 2.

xxxv/52

[1][(*bbb*) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms ;]

(*c*) for prescribing the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, [2]* * * and the training of men in ambulance work ;

[3][(*cc*) for prescribing the forms of notices required under section 23B, and for requiring such notices to be posted also in specified vernaculars ;]

(*d*) for defining the persons who shall, for the purpose of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity ;

(*e*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner [4][to have completed their fifteenth year], and for prescribing the manner and the circumstances in which such certificates may be granted and revoked ;

[5][(*ee*) for prescribing the form of the certificates of fitness required by section 26A and the circumstances in which such certificates may be granted and revoked ;]

(*f*) for prescribing the form of [6][registers] required by section 28 ;

(*g*) for prescribing abstracts of this Act [7][and of the regulations and rules] and the vernacular in which the abstracts and [8]* * * bye-laws shall be posted as required by sections 32 and 33 ;

(*h*) for requiring the fencing of any mine or part of a mine whether the same is being worked or not, where such fencing is necessary for the protection of the public ;

(*i*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty

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[1] Ins. by the Indian Mines (Amendment) Act, 1946 (2 of 1946), s. 2.

[2] The words "the formation and training of rescue brigades" rep. by the Indian Mines (Amendment) Act, 1936 (11 of 1936), s. 4.

[3] Ins. by the Indian Mines (Amendment) Act, 1928 (13 of 1928), s. 6.

[4] Subs. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 15, for "to be more than thirteen years of age".

[5] Ins. by s. 15, *ibid.*

[6] Subs. by s. 15, *ibid.*, for "register".

[7] Ins. by the Repealing and Amending Act, 1925 (37 of 1925), s. 2 and Sch. I.

[8] The words "the regulations, rules and" rep. by s. 2 and Sch. I, *ibid.*

XXXV/52

or any local authority or railway company as defined in the Indian Railways Act, 1890 ; IX of 1890.

(*j*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted ; and

(*k*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

Power of Central Government to require rescue stations to be established.

[1][**30A.** The [2][Central Government] may, by notification in the [3][Official Gazettee], make [4][rules] under this section—

[5][(*a*) requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established ;

(*b*) providing for the management of central rescuse stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management ;

(*c*) prescribing the position, equipment, control, maintenance and functions of central rescue stations ;

(*d*) providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (*a*) in any group or included under clause (*a*) in any specified area, the utilisation of the proceeds thereof for the creation of a central rescue station fund for such group or area and the administration of such funds ;

(*e*) providing for the formation, training, composition, and duties of rescue brigades ; and

(*f*) providing generally for the conduct of rescue work in mines.]]

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[1] Ins. by the Indian Mines (Amendment) Act, 1936 (11 of 1936), s. 5.
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Gazette of India".
[4] Subs. by the Indian Mines (Amendment) Act, 1937 (29 of 1937), s. 4, for "regulations". For the Coal Mines Rescue Rules, 1939, *see* Gen. R. & O., Supplementary Vol. VI, p. 464.
[5] Subs. by s. 4, *ibid.*, for the orignal clauses.

(*Chapter VII.—Regulations, Rules and Bye-laws.*)

Prior publication of regulations and rules.

XXXV/52

31. (*1*) The power to make regulations and rules conferred by sections 29 [1][, 30 and 30A] is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

X of 1897.

(*3*) Before the draft of any regulation [2]* * * is published under this section it shall be referred [3]* * * to every Mining Board constituted ~~in [4][the Provinces]~~ under sec. 10 [5][which is, in the opinion of the [6][Central Government], concerned with the subject dealt with by the regulation] [7]* * * and the regulation [2]* * shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

[8][(*3a*) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted [9][in the part of [4]~~[the Provinces]~~ territories to which this Act applies affected by the rule], and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.]

(*4*) Regulations and rules shall be published in the [10][Official Gazette] [11]* * * and, on such publication, shall have effect as if enacted in this Act.

[12][(*5*) The provisions of sub-sections (*1*), (*2*) and (*3a*) shall not apply to the first occasion on which rules referred to in clause (*bb*) [13][or clause (*bbb*)] of section 30 are made.]

Power to make regulations without previous publication.

[14][**31A.** Notwithstanding anything contained in sub-sections (*1*), (*2*) and (*3*) of section 31, regulations under clause (*i*) and clauses (*k*) to (*s*) inclusive of section 29 may be made without previous publication and without previous reference to Mining Boards, if the [6][Central Govern-

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[1] Subs. by the Indian Mines (Amendment) Act, 1937 (29 of 1937), s. 5 for "and 30".

[2] The words "or rule" rep. by the Indian Mines (Amendment) Act, 1928 (13 of 1928), s. 7.

[3] The words "in the case of a regulation" rep. by s. 7, *ibid.*

[4] Subs. by the A. O. 1948 for "British India".

[5] Ins. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 16.

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] The words "and in the case of a rule to every Mining Board constituted in the Province" rep. by Act 13 of 1928.

[8] Ins. by s. 7, *ibid.*

[9] Subs. by the A. O. 1937 for "in the Province for which it is proposed to make the rule".

[10] Subs. by the A. O. 1937 for "Gazette of India".

[11] The words "and the local official Gazette, respectively" rep. by the A. O. 1937.

[12] Ins. by the Mines (Amendment) Ordinance, 1945 (17 of 1945), s. 3.

[13] Ins. by the Indian Mines (Amendment) Act, 1946 (2 of 1946), s. 3.

[14] Ins. by the Indian Mines (Amendment) Act, 1936 (11 of 1936), s. 6. For instances of regulations made under this section, *see* Gazette of India, 1936, Pt. I, pp. 598 and 868 and Gazette of India, 1937, Pt. I, pp. 176 and 1333.

x x x u/52

ment] is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.]

32. (*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine. Bye-laws.

(2) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the [1][Central Government] may, by general or special order, appoint in this behalf.

(*4*) (*a*) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the [1][Central Government] for approval.

(*b*) The [1][Central Government] may make such modifications of the draft bye-laws as it thinks fit.

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[1] Subs. by the A. O. 1937 for "L. G."

xxxv/52

(*c*) Before the [1][Central Government] approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the [1][Central Government] may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the [1][Central Government].

(*d*) Every objection shall be in writing and shall state—

(*i*) the specific grounds of objection, and
(*ii*) the omissions, additions or modifications asked for.

(*e*) The [1][Central Government] shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the [1][Central Government] shall have effect as if enacted in this Act, and the owner, agent or maneger of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The [1][Central Government] may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

Posting up of extracts from Act, regulations, etc.

33. There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Obstruction.

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term

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[1] Subs. by the A. O. 1937 for "L. G."

XXXV/52

which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Falsification of records, etc.

35. Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Omission to furnish plans, etc.

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Contravention of provisions regarding employment of labour.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Notice of accidents.

38. [1][(*1*)] Whoever, in contravention of the provisions [2][of sub-section (*1*)] of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

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[1] The original section 38 was re-numbered as sub-section (*1*) of that section by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 17.

[2] Ins. by s. 17, *ibid.*

XXXV/52

[1][(2) Whoever, in contravention of a direction made by the [2][Central Government] under sub-section (*2*) or section 20 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with fine which may extend to five hundred rupees.]

Disobedience of orders.

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

Contravention of law with dangerous results.

40. (*1*) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both ; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both ; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (*1*).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

Prosecution of owner, agent or manager.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector.

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[1] Ins. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 17.

[2] Subs. by the A. O. 1937 for " L. G."

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42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment. Cognizance of offences.

44. (*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the [1][Central Government] with a view to such reference being made. Reference to Mining Board or Committee in lieu of prosecution in certain cases.

(*2*) On receipt of a report under sub-section (*1*), the [1][Central Government] may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the [1][Central Government] may decide the question, and a certificate signed by a Secretary to the [1][Central Government] shall be conclusive on the point. Decision of question whether a mine is under this Act.

46. (*1*) The [2][Central Government] may, by notification in the [3][Official Gazette], exempt [4][either absolutely or subject to any specified conditions] any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act: Power to exempt from operation of Act.

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

[5]* * * * * * * *

47. The [2][Central Government] [6]* * * may reverse or modify any order passed under this Act [7]* * *. Power to alter or rescind orders.

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Gazette of India".
[4] Ins. by the Indian Mines (Amendment) Act, 1935 (5 of 1935), s. 18.
[5] Sub-section (2) rep. by the A. O. 1937.
[6] The words "and every L. G." rep. by the A. O. 1937.
[7] The words "by any authority subject to his or its control, as the case may be" rep. by the A. O. 1937.

Application of Act to Crown mines.

48. This Act shall apply to mines belonging to the Crown.

Saving.

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

50. [*Repeals.*] *Rep. by the Repealing Act, 1927* (*XII of 1927*), *s. 2 and Sch.*

THE SCHEDULE.—[*ENACTMENTS REPEALED.*] *Rep. by the Repealing Act, 1927* (*XII of 1927*), *s. 2 and Sch.*

THE INDIAN BOILERS ACT, 1923.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
2A. Application of Act to feed-pipes.
2B. Application of Act to economisers.
3. Limitation of application.
4. Power to limit extent.
5. Appointment of Chief Inspectors and Inspectors.
6. Prohibition of use of unregistered or uncertificated boiler.
7. Registration.
8. Renewal of certificate.
9. Provisional orders.
10. Use of boiler pending grant of certificate.
11. Revocation of certificate or provisional order.
12. Alterations and renewals to boilers.
13. Alterations and renewals to steam-pipes.
14. Duty of owner at examination.
15. Production of certificates, etc.
16. Transfer of certificates, etc.
17. Powers of entry.
18. Report of accidents.
19. Appeals to Chief Inspector.
20. Appeals to appellate authority.
21. Finality of orders.
22. Minor penalties.
23. Penalties for illegal use of boiler.
24. Other penalties.
25. Penalty for tampering with register mark.

SECTIONS.
26. Limitation and previous sanction for prosecutions.
27. Trial of offences.
27A. Central Boilers Board.
28. Power to make regulations.
29. Power to make rules.
30. Penalty for breach of rules.
31. Publication of regulations and rules.
32. Recovery of fees, etc.
33. Applicability to the Crown.
34. Exemptions.
Power to suspend in case of emergency.
35. [*Repealed.*]

THE SCHEDULE.—[*Repealed.*]

ACT NO. V OF 1923.[1]

[*23rd February, 1923.*]

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers ; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Boilers Act, 1923. Short title, extent and commencement.

(*2*) It extends to [2][~~all~~ whole the ~~Provinces~~ of India], ~~including~~ [3]* * the ~~Sonthal Parganas.~~ except the State of Jammu & Kashmir

(*3*) It shall come into force on such date[4] as the [5][Central Government] may, by notification in the [6][Official Gazettee], appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "accident" means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode ;

[7][(*aa*) "Board" means the Central Boilers Board constituted under section 27A ;]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 249 ; and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 15.
This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[2] Subs. by the A. O. 1948 for "the whole of British India".

[3] The words "British Baluchistan and" rep. by the A. O. 1948.

[4] This Act came into force on 1st January, 1924, *see* Gen. R. & O., Vol. V, p. 134 ; Gazette of India, 1923, Pt. I, p. 1695.

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "Gazette of India".

[7] Ins. by the Indian Boilers (Amendment) Act, 1937 (11 of 1937), s. 3.

(*b*) " boiler " means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure [1]* * * and includes any mounting or other fitting attached to such vessel, which is wholly or partly under pressure when steam is shut off ;

(*c*) " Chief Inspector " and " Inspector " mean, respectively, a person appointed to be a Chief Inspector and an Inspector under this Act ;

[2][(*cc*) " economiser " means any part of a feed-pipe that is wholly or partially exposed to the action of flue gases for the purpose of recovery of waste heat ;

(*ccc*) " feed-pipe " means any pipe or connected fitting wholly or partly under pressure through which feed water passes directly to a boiler and does not form an integral part thereof ;]

(*d*) " owner " includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof ;

(*e*) " prescribed " means prescribed by regulations or rules made under this Act ;

(*f*) " steam-pipe " means any main pipe execceding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe ; and

(*g*) " structural alteration, addition or renewal " shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

[3][**2A.** Every reference in this Act [except where the word 'steam-pipe' is used in clause (*f*) of section 2], to a steam-pipe or steam-pipes shall be deemed to include also a reference to a feed-pipe or feed-pipes, respectively.]

XXV/52

[4][**2B.** Every reference in this Act to a boiler or boilers [except in clause (*ccc*) of section 2, clause (*e*) of section 6, clauses (*c*) and ~~(*d*) of section 11, clause (*d*) of section 29, and~~ section 34] shall be deemed to include also a reference to an economiser or economisers, respectively.]

Limitation of application.

3. (*1*) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

(*a*) in any steam-ship as defined in section 3 of the [5] Indian Steam-ships Act, 1884, or in any steam-vessel as defined in section 2 of the Indian Steam-vessels Act, 1917 ; or

VII of 1884.
I of 1917.

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[1] The words " for use outside such vessel " rep. by the Indian Boilers (Amendment) Act, 1929 (9 of 1929), s. 2.

[2] Subs. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 2, for clause (*cc*), defining " feed-pipe ", which had been ins. by the Indian Boilers (Amendment) Act, 1943 (17 of 1943), s. 2.

[3] Ins. by the Indian Boilers (Amendment) Act, 1943 (17 of 1943), s. 3.

[4] Ins. by Act 34 of 1947, s. 3.

[5] *See* now the Indian Merchant Shipping Act, 1923 (21 of 1923), s. 2.

(*b*) belonging to or under the control of His Majesty's Navy or [1][the Royal Indian Navy] ; [2][or

(*c*) appertaining to a sterilizer or disinfector of a type such as is commonly used in hospitals, if the boiler does not exceed twenty gallons in capacity.]

(*2*) The [3][Central Government] may, by notification in the [4][Official Gazette], declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railways[5] administered [6][by the [7][Central Government] or by any State ~~Provincial~~ Government] or by any railway company as defined in clause (5) of section 3 of the Indian Railways Act, 1890.

IX of 1890.

[8]* * *

Power to limit extent.

4. The [9][State ~~Provincial~~ Government] may, by notification in the [4][Official Gazette], exclude[10] any specified area from the operation of all or any specified provisions of this Act.

Appointment of Chief Inspectors and Inspectors.

5. (*1*) The [11][State ~~Provincial~~ Government] may appoint such persons as it thinks fit to be Inspectors for the Province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act.

(*2*) The [11][State ~~Provincial~~ Government] shall likewise appoint a person to be Chief Inspector for the Province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(*3*) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Prohibition of use of unregistered or uncertificated boiler.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used—

(*a*) unless it has been registered in accordance with the provisions of this Act ;

(*b*) in the case of any boiler which has been transferred from one ~~Province~~ to another, until the transfer has been reported in the prescribed manner ;

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[1] Subs. by the A. O. 1937 for "the Royal Indian Marine Service".

[2] Ins. by the Indian Boilers (Amendment) Act, 1942 (5 of 1942), s. 2.

[3] Subs. by the A. O. 1948 for "Safety Controlling Authority" which had been subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] For list of Railways notified under this section, *see* Gen. R. & O. Vol. V. p. 134

[6] Subs. by the A. O. 1937 for "by the Govt.".

[7] Subs. by the A. O. 1948 for "Federal Railway Authority".

[8] Certain words defining "Safety Controlling Authority", ins. by the A. O. 1937, were rep. by the A. O. 1948.

[9] Subs. by the A. O. 1937 for "G. G. in C."

[10] The Andaman and Nicobar Islands have been excluded from the operation of the provisions of this Act ; *see* Gen. R. & O., Vol. V, p. 135.

[11] Subs. by the A. O. 1937 for "L. G.'

(*c*) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act ;

(*d*) at a pressure higher than the maximum pressure recorded in such certificate or provisional order ;

(*e*) where the [1][~~Provincial~~ State Government] has made rules requiring that boilers shall in charge of persons holding certificates of competency, unless the boiler is in charge of a person holding the certificate required by such rules:

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act:

[2]* * * * * * * * * *.

Registration. 7. (*1*) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(*2*) On receipt of an application under sub-section (*1*), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

(*3*) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(*4*) The Chief Inspector, on receipt of the report, may—

(*a*) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(*b*) refuse to register the boiler:

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(*5*) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

[3][Provided that a certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.]

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[1] Subs. by the A. O. 1937 for "L. G."

[2] The second proviso rep. by the Repealing and Amending Act, 1939 (34 of 1939), s. 3 and Sch. II.

[3] Ins. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 4.

(*6*) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

Renewal of certificate.

8. (*1*) A certificate authorising the use of a boiler shall cease to be in force—

(*a*) on the expiry of the period for which it was granted ; or

(*b*) when any accident occurs to the boiler ; or

(*c*) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler ; or

(*d*) when any structural alteration, addition or renewal is made in or to the boiler ; or

(*e*) if the Chief Inspector in any particular case so directs, when any structural alteration, addition, or renewal is made in or to any steam-pipe attached to the boiler ; or

(*f*) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(*2*) Where an order is made under clause (*f*) of sub-section (*1*), the grounds on which the order is made shall be communicated to the owner with the order.

(*3*) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

[1][Provided that where the certificate relates to an economiser, the application for its renewal may be for a period not exceeding twenty-four months.]

(*4*) An application under sub-section (*3*) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed:

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

[1][Provided further that in the case of an economiser, the owner shall be given not less than thirty days' notice of the date fixed for its examination.]

(*5*) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewal certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act:

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[1] Ins. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 5.

[1][Provided that a renewed certificate issued under this sub-section in respect of an economiser may authorise its use for a period not exceeding twenty-four months.]

Provided [1][futher] that if the Inspector—

(*a*) proposes to issue any certificate—

(*i*) having validity for a less period than the period entered in the application, or

(*ii*) increasing or reducing the maximum pressure at which the boiler may be used, or

(*b*) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(*c*) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eighty hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(*6*) The Chief Inspector, on receipt of a report under sub-section (*5*), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it:

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(*7*) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

Provisional orders.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (*3*) of section 7 or sub-section (*5*) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (*f*) of sub-section (*1*) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under the Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(*a*) on the expiry of six months from the date on which it is granted, or

(*b*) on receipt of the orders of the Chief Inspector, or

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[1] Ins. by the Indian Boilers (Amendment) Act, 1947 (34 of 1947), s. 5.

(*c*) in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-section (*1*) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

Use of boiler pending grant of certificate.

10. (*1*) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(*2*) Nothing in sub-section (*1*) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-section (*1*) of section 8 occurring after the expiry of the period of the certificate.

Revocation of certificate or provisional order.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

(*a*) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination ; or

(*b*) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition ; or

(*c*) where the [1][~~Provincial~~ State Government] has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules ; or

(*d*) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler, in the opinion of the Chief Inspector competent to have charge thereof:

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (*d*), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

Alterations and renewals to boilers.

12. No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

Alterations and renewals to steam-pipes.

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

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[1] Subs. by the A. O. 1937 for " L. G."

Duty of owner at examination.

14. (*1*) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

(*a*) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him ;

(*b*) to have the boiler properly prepared and ready for examination in the prescribed manner ; and

(*c*) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(*2*) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (*1*), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

Production of certificates, etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler if for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911,[1] or by any person specially authorised in writing by a District Magistrate or Commissioner of Police.

XII of 1911.

Transfer of certificates, etc.

16. If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

Powers of entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

Report of accidents.

18. (*1*) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

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[1] *See* now the Indian Factories Act, 1934 (25 of 1934).

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question put to him in writing by the Inspector as to the cause, nature or extent of the accident.

Appeals to Chief Inspector.

19. Any person considering himself aggrieved by—

(*a*) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or

(*b*) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

Appeals to appellate authority.

20. Any person considering himself aggrieved by an original or appellate order of the Chief Inspector—

(*a*) refusing to register a boiler or to grant or renew a certificate in respect of a boiler ; or

(*b*) refusing to grant a certificate having validity for the full period applied for ; or

(*c*) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired ; or

(*d*) withdrawing or revoking a certificate or provisional order ; or

(*e*) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted ; or

(*f*) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the [1][Provincial State Government] under this Act.

Finality of orders.

21. An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

Minor penalties.

22. Any owner of a boiler who refuses or without reasonable excuse neglects—

(*i*) to surrender a provisional order as required by section 9, or

(*ii*) to produce a certificate or provisional order when duly called upon to do so under section 15, or

(*iii*) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

Penalties for illegal use of boiler.

23. Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

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[1] Subs. by the A. O. 1937 for " L. G."

Other penalties.

24. Any person who—

(*a*) uses or permits to be used a boiler of which he is the owner and which has been transferred from one Province to another without such transfer having been reported as required by section 6, or

(*b*) being the owner of a boiler fails to cause the registered number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (*6*) of section 7, or

(*c*) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or

(*d*) fails to report an accident to a boiler or steam-pipe when so required by section 18, or

(*e*) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees.

Penalty for tampering with register mark.

25. (*1*) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

(*2*) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Limitation and previous sanction for prosecutions.

26. No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Trial of offences.

27. No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Central Boilers Board.

[1][**27A.** (*1*) A Board to be called the Central Boilers Board shall be constituted to exercise the powers conferred by section 28.

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[1] S. 27A was ins. by the Indian Boilers (Amendment) Act, 1937 (II of 1937), s. 4.

(2) The Board shall consist of ~~nineteen~~ twenty [1]~~[twelve]~~ members, namely:—

(a) a chairman to be nominated by the [2][Central Government] ;

[3][(b) one member to be nominated by the State Provincial Government of each ~~Governor's Province~~] Part A States or Part B States;

(c) one member, holding office for a period of three years, to be nominated ~~alternately by the~~ [4][Provincial Government] ~~of Delhi~~ and the [4][~~Provincial Government~~] of Ajmer-Merwara ; and by the central Govt. to represent Part C States

(d) one member to be nominated by the ~~Chief Commissioner~~ of ~~Railways.~~ Chairman, Railway Board

(3) Any vacancy occurring in the Board, otherwise than by the expiry of the term of office of the member referred to in clause (c) of sub-section (2), shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

(4) The Board shall have full power to regulate by by-laws or otherwise its own procedure and the conduct of all business to be transacted by the Board.

(5) The powers of the Board may be exercised notwithstanding any vacancy in the Board.]

Power to make regulations.

28. The [5][Board] may, by notification in the Gazette of India, make regulations[6] consistent with this Act for all or any of the following purposes, namely:—

(a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act ;

[7][(aa) for prescribing the circumstances in which, the extent to which, and the conditions subject to which variation from the standard conditions laid down under clause (a) may be permitted ;]

(b) for prescribing the method of determining the maximum pressure at which a boiler may be used ;

(c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler ;

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[1] Subs. by the A. O. 1948 for "fourteen".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1948 for the former clause.

[4] Subs. by the A. O. 1937 for "L. G."

[5] Subs. by the Indian Boilers (Amendment) Act, 1937 (11 of 1937), s. 5, for "G. G. in C."

[6] For the Indian Boiler Regulations, 1924, *see* Gen. R. & O., Vol. V, p. 136. These Regulations, which were made by the G. G. in C., shall be deemed to have been made by the Board: *see* the Rules and Regulations Continuance Act, 1937 (24 of 1937).

[7] Ins. by Act 11 of 1937, s. 5.

(*d*) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor ;

(*e*) for ensuring the safety of persons working inside a boiler ; and

(*f*) for providing for any other matter which is not, in the opinion of the [1][Board], a matter of merely local or provincial importance.

Power to make rules.

29. The [2][~~Provincial~~ State Government] may, by notification in the [3][Official Gazette], make rules[4] consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely:—

(*a*) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, [5]* * * for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities ;

(*b*) for regulating the transfer of boilers ;

(*c*) for providing for the registration and certification of boilers in accordance with the regulations made under this Act ;

(*d*) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted ;

(*e*) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8 ;

(*f*) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case ;

(*g*) for regulating inquiries into accidents ;

(*h*) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure ;

(*i*) for determining the mode of disposal of fees, costs and penalties levied under this Act ; and

(*j*) generally to provide for any matter which is, in the opinion of the [2][~~Provincial~~ State Government], a matter of merely local importance in the ~~Province~~. State

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[1] Subs. by the Indian Boilers (Amendment) Act, 1937 (II of 1937), s. 5, for "G. G. in C."

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "local official Gazette".

[4] For such rules for Coorg, *see* Notification No. 37, dated 31st March, 1925, in the Coorg District Gazette, 1925, Pt. I, p. 26.

[5] The words "for regulating their salary, allowances and conditions of service" rep. by the A. O. 1937.

[1]* * * * * * *

Penalty for breach of rules.

30. Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Publication of regulations and rules.

31. (*1*) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication.

(*2*) Regulations and rules so made shall be published in the Gazette of India and the local Official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Recovery of fees, etc.

32. All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Applicability to the Crown.

33. Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the ~~Crown~~. [illegible]

Exemptions.

34. [2][(*1*) The [3][~~Provincial~~ State Government] may, by notification in the [4][Official Gazette], exempt from the operation of this Act, subject to such conditions and restrictions as it thinks fit, any boilers or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water.]

Power to suspend in case of emergency.

[2][(*2*)] In case of any emergency, the [3][~~Provincial~~ State Government] may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

35. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE SCHEDULE.—[*ENACTMENTS REPEALED.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE CANTONMENTS (HOUSE-ACCOMMODATION) ACT, 1923.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1. Short title, extent and commencement.
2. Definitions.

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[1] The proviso was rep. by the A. O. 1937.

[2] The original s. 34 was re-numbered as sub-section (*2*), and sub-section (*1*) was ins., by the Indian Boilers (Amendment) Act, 1929 (9 of 1929), s. 3.

[3] Subs. by the A. O. 1937 for "L. G."

[4] Subs. by the A. O. 1937 for "local official Gazette".

CHAPTER II.

APPLICATION OF ACT.

SECTIONS.

3. Cantonments or parts of cantonments in which Act to be operative.
4. Saving of written instruments.

CHAPTER III.

APPROPRIATION OF HOUSES.

5. Liability of houses to appropriation.
6. Conditions on which houses may be appropriated.
7. Procedure for taking house on lease.
8. [*Repealed.*]
9. Sanction to be obtained before a house is occupied as a hospital, etc.
10. Houses not to be appropriated in certain cases.
11. Time to be allowed for giving possession of house.
12. Surrender of house when to be enforced.
13. Option in certain cases for owner on whom notice is issued under section 7 to call upon the Government to purchase.
14. Provision where house is held on long lease by a tenant.
15. Power for owner to refer to civil court on question of rent.
16. Power for owner to refer to civil court on question of repairs.
17. Power to have repairs executed and recover cost.
18. Notice to be given of devolution of interest in house in cantonment.

CHAPTER IV.

PROCEDURE IN REFERENCES.

19. Jurisdiction in references.
20. Procedure and powers of the Court.
21. Restriction of scope of inquiry.
22 to 28. [*Repealed.*]

CHAPTER V.

APPEALS.

29. Appeal to High Court.
30. Appeal to Officer Commanding the District.
31. Petition of appeal.
32. Order in appeal final.
33. Suspension of action pending appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

SECTIONS.
34. Service of notice and requisitions.
34A. Computation of periods of limitation.
35. Power for Central Government to make rules.
36. Further provisions respecting rules.
37. Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences.
38. Protection to persons acting under Act.
39. [*Repealed.*]

THE SCHEDULE.—[*Repealed.*]

ACT No. VI OF 1923.[1]

[*5th March, 1923.*]

An Act further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments.

WHEREAS it is expedient further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments (House-Accommodation) Act, 1923.

(*2*) It extends to [2][all the whole ~~Provinces~~ of India] except Part B States [3]* * *.

(*3*) It shall come into force on the first day of April, 1923, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3:

Provided that any notification made under section 3 of the [5]Cantonments (House-Accommodation) Act, 1902, which is in force at the commencement of this Act, shall be deemed to be a notification made under section 3 of this Act.

II of 1902.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 233 ; and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 5.

[2] Subs. by the A. O. 1948 for " the whole of British India ".

[3] The brackets and words " (inclusive of British Baluchistan) " rep. by the A. O. 1948.

[4] The words " except Aden " rep. by the A. O. 1937.

[5] Rep. by s. 39 and Sch. of this Act.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " Brigade area " means one of the Brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes any area which the [1][Central Government] may, by notification in the [2][Official Gazette], declare to be a Brigade area for all or any of the purposes of this Act ;

[3]* * * * * * *

[4][(*b*) " Cantonment Board " means a Cantonment Board constituted under the Cantonments Act, 1924 ;] II of 1924.

(*c*) " Command " means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the [1][Central Government] may, by notification in the [2][Official Gazette], declare to be a Command for all or any of the purposes of this Act ;

(*d*) [5][" Officer Commanding the station "] means the officer for the time being in command of the forces in a cantonment [6][or, if that Officer is the Officer Commanding the District, the military officer who would be in command of those forces in the absence of the Officer Commanding the District].

(*e*) " District " means one of the Districts into which India is for military purposes for the time being divided ; it includes a Brigade area which does not form part of any such District and any area which the [1][Central Government] may, by notification in the [2][Official Gazette], declare to be a District for all or any of the purposes of this Act ;

(*f*) " house " means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house ;

(*g*) " military officer " means a commissioned or warrant officer of the Indian ~~His Majesty's~~ military or air forces on military or air force duty in a cantonment, ~~and includes a Chaplain on duty with troops in a cantonment~~, [7][an officer of the Cantonments Department] and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act ;

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] Subs. by the A. O. 1937 for " Gazette of India ".

[3] The original cl. (*b*) was rep. by the Cantonments (House-Accomodation Amendment) Act, 1930 (9 of 1930), s. 2.

[4] Cl. (*bb*), ins. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 2, was relettered (*b*) by Act 9 of 1930, s. 2.

[5] Subs. by Act 10 of 1925, s. 6, for " Commanding Officer of the Cantonment ".

[6] Ins. by Act 9 of 1930, s. 2.

[7] Subs. by Act 10 of 1925, s. 2, for " a Cantonment Magistrate ".

(*h*) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant ; and

(*i*) a house is said to be in a state of reasonable repair when—

(*i*) all floors, walls, pillars and arches are sound and all roofs sound and watertight,

(*ii*) all doors and windows are intact, properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and

(*iii*) all rooms, out-houses and other appurtenant buildings are properly colour-washed or white-washed.

(*2*) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the [1][Officer Commanding the station] whose decision thereon shall, subject to revision by the [2][Collector], be final.

CHAPTER II.

APPLICATION OF ACT.

Cantonments or parts of cantonments in which Act to be operative.

3. (*1*) The [3][Central Government] [4]* * * may, by notification in the [5][Official Gazette], declare this Act to be operative in any cantonment or part of a cantonment [6]* * *, other than a cantonment situate within the limits of a presidency-town.

(*2*) Before issuing a notification under sub-section (*1*) in respect of any cantonment or part of a cantonment, the [3][Central Government] shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification, and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of written instruments.

With the Govt.

[7][4. Nothing in this Act shall affect the provisions of any written ~~Crown~~ contract[8] unless all the parties to that contract consent in writing to be bound by the terms of this Act.]

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for "Commanding Officer of the Cantonment".

[2] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 2, for "District Magistrate".

[3] Subs. by the A. O. 1937 for "L. G."

[4] The words "with the previous sanction of the G. G. in C." rep. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for "local official Gazette".

[6] The words "situate in the Province" rep. by the A. O. 1937.

[7] Subs. by the A. O. 1937 for the original section.

[8] For definition, *see* the General Clauses Act, 1897 (10 of 1897), s. 3 (*14a*).

CHAPTER III.

APPROPRIATION OF HOUSES.

Liability of houses to appropriation.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (*1*) of section 3 is for the time being in force shall be liable to appropriation by [1][the Central Government] on a lease in the manner and subject to the conditions hereinafter provided.

Conditions on which houses may be appropriated.

[2][**6.** (*1*) Where—

(*a*) a military officer who is stationed in or has been posted to the cantonment, or a President of a military mess in the cantonment, applies in writing to the Officer Commanding the Station stating that he is unable to secure suitable accommodation in the cantonment for himself or the mess on reasonable terms by private agreement, and that no suitable house or quarter [3][belonging to the ~~Crown~~ Govt] is available for his occupation or for the occupation of the mess, and the Officer Commanding the Station is satisfied on inquiry of the truth of the facts so stated ; or

(*b*) the Officer Commanding the Station is satisfied on inquiry that there is not in the cantonment a sufficient and assured supply of houses available at reasonable rates of rent by private agreement to meet the requirements of the military officers and military messes whose accommodation in the cantonment is in his opinion necessary or expedient,

the Officer Commanding the Station may, with a view to enforcing the liability under section 5, serve a notice on the owner of any house which appears to him to be suitable for occupation by a military officer or a military mess, as the case may be, within the cantonment, or, if this Act is in force in part only of the cantonment, within that part, requiring the owner to permit the house to be inspected, measured and surveyed by such person and on such date, not being less than three clear days from the service of the notice, and at such time between sunrise and sunset, as may be specified in the notice.

(*2*) On the date and at the time so specified the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house and if he refuses or neglects to do so, such person may, subject to any rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.]

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[1] Subs. by the A. O. 1937 for "the Govt."

[2] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 3, for the original section.

[3] Subs. by the A. O. 1937 for "belonging to Govt."

Procedure for taking house on lease.

7. (*1*) If, on the report of such person as aforesaid, the [1][Officer Commanding the station] is satisfied that the house is suitable for occupation by a military officer or a military mess, he may [2]* * * by notice—

(*a*) require the owner to execute a lease of the house to [3][the Central Government] for a specified period which shall not be less than five years ;

(*b*) require the existing occupier, if any, to vacate the house ; and

(*c*) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the [1][Officer Commanding the station], be necessary for the purpose of putting the house into a state of reasonable repair.

(*2*) Every notice issued under sub-section (*1*) shall state the amount of the annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs, if any. It shall also contain an estimate of the cost of such repairs.

(*3*) The following shall be deemed to be conditions of every lease executed under sub-section (*1*), namely:—

(*a*) that the house shall, on the expiration of the lease, be re-delivered to the owner in a state of reasonable repair, and

(*b*) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed:

[4][Provided that nothing in this sub-section shall be deemed to affect the right of [3][the Central Government] to avoid the lease in any such event as is specified in clause (*e*) of section 108 of the Transfer of Property Act, 1882.] IV of 1882.

8. [*Procedure to be observed before taking a house on lease.*] *Rep. by the Cantonments* (*House-Accommodation Amendment*) *Act, 1930* (*IX of 1930*), *s. 5.*

Sanction to be obtained before a house is occupied as a hospital, etc.

9. No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the [5]Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or II of 1902.

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for "Commanding Officer of the Cantonment".

[2] The words "with the previous sanction of the Officer Commanding the District" rep. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 4.

[3] Subs. by the A. O. 1937 for "the Govt."

[4] Ins. by Act 9 of 1930, s. 4.

[5] Rep. by s. 39 and Sch. of this Act.

by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a Province where there are no Commissioners, of the Collector.

Houses not to be appropriated in certain cases.

10. No notice shall be issued under section 7 if the house—

(*a*) was, at the date of the issue of the notification declaring this Act or the [1]Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative in the cantonment or part of the cantonment, or is, with such sanction as is required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or II of 1902.

(*b*) was, at the date of such a notification as is referred to in clause (a), or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or

(*c*) is occupied by the owner, or

(*d*) has been appropriated by the [2][~~Provincial~~ State Government] with the concurrence of the Officer Commanding the District, or by the [3][Central Government], for use as a public office or for any other purpose.

Time to be allowed for giving possession of house.

11. (*1*) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the [4][Officer Commanding the station] within twenty-one days from the service of the notice.

(*2*) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(*3*) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

Surrender of house when to be enforced.

12. If the owner fails to give possession of a house to the [4][Officer Commanding the station] in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house.

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[1] Rep. by s. 39 and Sch. of this Act.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for "Commanding Officer of the Cantonment".

Option in certain cases for owner on whom notice is issued under section 7 to call upon the Government to purchase.

13. (*1*) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the [1][Central Government], or is proved by a decree or order of a Court of competent jurisdiction, to have been erected—

(*a*) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or

(*b*) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (*a*),

then the owner shall have the option of either complying with the notice or offering the house [2][for sale to the Central Government].

(*2*) If the owner elects to sell the house, and [3][the Central Government] is willing to purchase it, the question of the amount of the purchase-money to be paid shall, in the event of disagreement, be referred to [4][a Civil Court, in accordance with the provisions of Chapter IV].

Provision where house is held on long lease by a tenant.

14. (*1*) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, [5][the Central Government] shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(*2*) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, [5][the Central Government] shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(*3*) Nothing in this section shall be deemed—

(*a*) to render [6][the Central Government] so liable unless an application in writing in this behalf is made by the owner to the

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[1] Subs. by the A. O. 1937 for "L. G."
[2] Subs. by the A. O. 1937 for "for sale to the Govt."
[3] Subs. by the A. O. 1937 for "the Govt."
[4] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 6, for "a Committee of Arbitration".
[5] Subs. by the A. O. 1937 for "the Secretary of State for India in Council".
[6] Subs. by the A. O. 1937 for "the said Secretary of State in Council".

[1][Officer Commanding the station] within fifteen days from the service of the notice ; or

(*b*) to limit or otherwise affect any agreement between [2][the Crown] and the owner.

Power for owner to refer to Civil Court on question of rent.

15. (*1*) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of [3][thirty] days from the service of such notice, [4][refer the matter to a Civil Court, in accordance with the provisions of Chapter IV]:

[5][Provided that where an appeal has been made to the Officer Commanding the District under section 30, the period of thirty days shall be reckoned from the date on which the owner received notice of the result of the appeal under sub-section (*2*) of section 32.]

(*2*) if the owner does not make such a [6][reference] within the said period, he shall be deemed to have accepted the rent so offered.

Power for owner to refer to Civil Court on question of repairs.

16. (*1*) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the [1][Officer Commanding the station] may by notice require the owner to execute the repairs within such period, not being less than [7][thirty] days, as may be specified in the notice.

(*2*) If the owner objects to any requisition contained in a notice issued under sub-section (*1*), he may within [7][thirty] days from the service of the notice [8][refer the matter to a Civil Court in accordance with the provisions of Chapter IV]:

[9][Provided that where an appeal has been made to the Officer Commanding the District under section 30, the period of thirty days shall be reckoned from the date on which the owner received notice of the result of the appeal under sub-section (*2*) of section 32.]

[10][(*3*) Every reference under sub-section (*2*) shall be accompanied by an estimate of the repairs, if any, which the owner considers necessary in order to put the house into a state of reasonable repair.]

Power to have repairs executed

[11][**17.** If the owner fails to comply with a notice issued under sub-section (*1*) of section 16, the Military Engineer Services or the Public Works

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for " Commanding Officer of the Cantonment ".

[2] Subs. by the A. O. 1937 for " the said Secretary of State in Council ".

[3] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 7, for " fifteen ".

[4] Subs. by s. 7, *ibid.*, for " require that the matter be referred by the Officer Commanding the station to a Committee of Arbitration ".

[5] Ins. by the Cantonments (House-Accommodation Amendment) Act, 1933 (22 of 1933), s. 2.

[6] Subs. by Act 9 of 1930, s. 7, for " requisition ".

[7] Subs. by s. 8, *ibid.*, for " fifteen ".

[8] Subs. by s. 8, *ibid.*, for " require that the matter be referred by the Officer Commanding the station to a Committee of Arbitration ".

[9] Ins. by Act 22 of 1933, s. 3.

[10] Ins. by Act 9 of 1930, s. 8.

[11] Subs. by s. 9, *ibid.*, for the original section.

Department may, with the previous sanction of the Officer Commanding the Station and notwithstanding any right of reference conferred by that section, cause the repairs specified in the notice to be executed at the expense of [1][the Central Government], and the cost thereof, or, where a reference has been made, the amount finally determined by the Civil Court, may be deducted from the rent payable to the owner.] and recover cost.

Notice to be given of devolution of interest in house in cantonment.

18. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (*1*) of section 3 is for the time being in force, shall be bound to give notice of the fact to the [2][Officer Commanding the station] within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

[3][CHAPTER IV.

PROCEDURE IN REFERENCES.

Jurisdiction in references.

19. All references under this Act shall be made by application to, and tried by, the Court of the District Judge.

Procedure and powers of the Court.

V of 1908.

20. References under this Act shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908, and in the trial thereof the Court may exercise any of its powers under that Code.

Restriction of scope of inquiry.

21. The scope of the inquiry in a reference under this Act shall be restricted to a consideration of the matters referred to the Court in accordance with the provisions of this Act.]

CHAPTER V.

APPEALS.

Appeal to High Court.

[4][**29.** (*1*) An appeal shall lie to the High Court against the decision of the Court of the District Judge upon a reference tried by it.

(*2*) No appeal under this section shall be admitted unless it is made within thirty days from the date of the decision against which it is preferred

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[1] Subs. by the A. O. 1937 for "the Govt."

[2] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for "Commanding Officer of the Cantonment".

[3] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 10, for the original Chapter IV entitled "Committees of Arbitration" and consisting of ss. 19 to 28.

[4] Subs. by s. 11, *ibid.*, for the original section.

(*3*) An appeal preferred under this section shall be deemed to be an appeal from an order within the meaning of section 108 of the Code of Civil Procedure, 1908.] V of 1908.

Appeal to Officer Commanding the District.

[1][30. The owner or any tenant of a house in respect of which a notice has been issued under section 7 may, within a period of [2][ten days] from the date of the service thereof, appeal to the Officer Commanding the District against the decision of the Officer Commanding the Station to appropriate the house.]

Petition of appeal.

31. (*1*) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against.

(*2*) Any such petition may be presented to the [3][Officer Commanding the station], and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(*3*) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary, the Officer Commanding the District may refer the petition to the [3][Officer Commanding the station] for report.

Order in appeal final.

32. [4][(*1*) The decision on any such appeal of the Officer Commanding the District [5]* * * shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment, in which this Act is not operative:

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner [6][and in giving a decision the Officer Commanding the District shall record briefly the grounds therefor].

[7][(*2*) Notice of the result of the appeal shall be given to the appellant as soon as may be, and, where the appellant is a tenant of the house, to the owner of the house also.]

Suspension of action pending appeal.

33. Where an appeal has been presented under section 30 within the period prescribed [8][therein], all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 12, for the original section.

[2] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1933 (22 of 1933), s. 4, for "twenty-one days".

[3] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 6, for "Commanding Officer of the Cantonment".

[4] The original s. 32 was re-numbered as sub-section (*1*) of that section by Act 22 of 1933, s. 5.

[5] The words "or of the General Officer Commanding-in-Chief, the Command, as the case may be" were rep. by Act 9 of 1930, s. 13.

[6] Ins. by Act 9 of 1930, s. 13.

[7] Ins. by Act 22 of 1933, s. 5.

[8] Subs. by Act 9 of 1930, s. 14, for "by sub-section (*2*) of that section".

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Service of notice and requisitions.

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or, in the case of an owner who does not reside in or near the cantonment, on his agent appointed [1][in accordance with a bye-law made under clause (*29*) of section 282 of the Cantonments Act, 1924]. II of 1924.

Computation of periods of limitation.

[2][**34A.** The period prescribed for making any reference or preferring any appeal under this Act shall be computed in accordance with the provisions of the Indian Limitation Act, 1908.] IX of 1908.

Power for Central Government to make rules.

35. (*1*) The [3][Central Government] may make rules[4] to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

[5]* * * * * * *

(*b*) define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

Further provisions respecting rules.

36. (*1*) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the [6][Official Gazette] and in such other manner (if any) as the [3][Central Government] may direct.

(*2*) Any rule under section 35 may be general for all cantonments or parts of cantonments ~~in [7][the Provinces]~~ in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the [3][Central Government] may direct.

(*3*) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment [8][Board].

(*4*) In making any rule under clause (*b*) of sub-section (*2*) of section 35, the [3][Central Government] may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty rupees, and, in the case XLV of 1860.

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 4, for " under the Cantonments Act, 1910, or any rule made thereunder ".

[2] Ins. by the Cantonments (House-Accommodation Amendment) Act, 1930 (9 of 1930), s. 15.

[3] Subs. by the A. O. 1937 for " G. G. in C."

[4] For such rules, *see* Gen. R. and O., Vol. V, p. 251.

[5] Cl. (*a*) was rep. by Act 9 of 1930, s. 16.

[6] Subs. by the A. O. 1937 for " Gazette of India ".

[7] Subs. by the A. O. 1948 for " British India ".

[8] Subs. by Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Sch. II, for " Authority ".

of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences.

37. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment [1][Board] or has ordered or approved the prosecution. V of 1898.

Protection to persons acting under Act.

38. No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

39. *[Repeals.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE SCHEDULE.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE INDIAN NAVAL ARMAMENT ACT, 1923.

ACT NO. VII OF 1923.[2].

[5th March, 1923.]

An Act to give effect ~~in [3][the Provinces]~~ to the Treaty for the Limitation of Naval Armament.

WHEREAS it is expedient to give effect ~~in [3][the Provinces]~~ to the [4][Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of govt. ~~His Majesty~~ on the twenty-fifth day of March, 1936] ; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Naval Armament Act, 1923.

(*2*) It extends to [5]~~[all the Provinces~~ the whole of India], ~~and applies also to all subjects and servants of His Majesty~~ in other parts of India.

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[1] Subs. by the Cantonments (House-Accommodation Amendment) Act, 1925 (10 of 1925), s. 5, for "Committee".

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 348.

[3] Subs. by the A. O. 1948 for "British India".

[4] Subs. by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), s. 2, for the original words as amended by the Indian Naval Armament (Amendment) Act, 1931 (8 of 1931), s. 2.

[5] Subs. by the A. O. 1948 for "the whole of British India".

(*3*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " competent Court " means the High Court or such other Court having unlimited original civil jurisdiction as the [2][Central Government] may declare to be a competent Court for the purposes of this Act ;

b) "States" denotes all
rritories for the
ime being comprised
ithin Part A States &
art C States

(*b*) " ship " means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating, on water, and includes all equipment belonging to any ship ; and

[4][(*c*) " the Treaty " means the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of ~~His Majesty~~ govt. on the twenty-fifth day of March, 1936.]

Restriction on building or equipping vessels of war.

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

(*a*) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war ; or

(*b*) despatch or deliver, or allow to be despatched or delivered, from any place in [5][the Provinces] any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or ~~in a State in~~ India otherwise than under and in accordance with any law for the time being in force in that part ~~or State.~~

Licences.

4. (*1*) A licence under this Act for any of the purposes specified in section 3 may be granted by the [6][Central Government], and shall not be refused unless it appears to the [6][Central Government] that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty ; and, where a licence is granted subject to conditions, the conditions shall be such only as the [6][Central Government] may think necessary for the purpose aforesaid.

(*2*) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the [6][Central Government] may, by general or special order, require.

[7][(*3*) Any person who, in pursuance of a license granted under sub-section (*1*) before the commencement of the Indian Naval Armament

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[1] This Act was brought into force on 10th November, 1923—*see* Gen. R. and O., Vol. V, p. 258 ; Gazette of India, 1923, Pt. I, p. 1617.

[2] Subs. by the A. O. 1937 for " G. G. in C."

[3] Subs. by the A. O. 1937 for " Gazette of India ".

[4] Subs. by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), s. 3, for the original clause.

[5] Subs. by the A. O. 1948 for " British India ".

[6] Subs. by the A. O. 1937 for " L. G."

[7] Ins. by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), s. 4.

(Amendment) Act, 1937, is engaged in building any vessel of war or in altering, arming or equipping any ship so as to adapt her for use as a vessel of war, or is about to despatch or deliver, or allow to be despatched or delivered, from any place within [1][the ~~Provinces~~ States] any ship which has been so built, altered, armed or equipped, either entirely or partly, within [1][the ~~Provinces~~], States shall, upon written demand, furnish to the [2][Central Government] such designs and particulars as may be required by the [2][Central Government] for the purpose of securing the observance of the obligations imposed by the Treaty.]

II of 1937.

Offences against the Act.

5. (*1*) If any person contravenes any of the provisions of section 3 [3][or fails to comply with the provisions of sub-section (*3*) of section 4], he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(2) Where an offence punishable under sub-section (*1*) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

(*3*) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure, 1898, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

V of 1898.

Liability of ships to forfeiture.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in [1][the ~~Provinces~~ States] in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State, shall, if found in [1][the ~~Provinces~~] States, be liable to forfeiture under this Act.

Seizure, detention and search of ships.

7. (*1*) Where a ship is liable to forfeiture under this Act,—

(*a*) any Presidency Magistrate or Magistrate of the first class, or

Armed forces of the union (*b*) any commissioned officer on full pay in the ~~military~~, naval ~~or air~~ service ~~of His Majesty,~~ [4]* * * or

(*c*) any officer of customs or police-officer not below such rank[5] as may be designated in this behalf by the [6][Central Government],

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of [1][the ~~Provinces~~ States], may bring it to any convenient port in [1][the ~~Provinces~~] States

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "L. G."

[3] Ins. by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), s. 4.

[4] The words "or any Gazetted Officer of the Royal Indian Marine Service" were rep. by the A. O. 1937.

[5] For notification designating the rank of such officers, *see* Gen. R. and O., Vol. V, p. 258.

[6] Subs. by the A. O. 1937 for "G. G. in C."

(2) Any officer taking any action under sub-section (1) shall forthwith report the same through his official superiors to the [1][Central Government].

(3) The [1][Central Government] shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

Procedure in forfeiture of ships.

8. (1) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the [1][Central Government] to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908, and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

V of 1908.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to ~~His Majesty~~. govt

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof:

Provided, further, that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the [1][Central Government], to such condition as not to render it liable to forfeiture under this Act.

(5) The [1][Central Government] or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court.

Disposal of forfeit.

9. Where a ship has been forfeited to ~~His Majesty~~ govt under section 8, it may be disposed of in such manner as the [1][Central Government] [2]* * directs.

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[1] Subs. by the A. O. 1937 for "L. G."

[2] The words "subject to the control of the G. G. in C." rep. by the A. O. 1937.

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

Special proof of relevant facts.

10. If, in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the [1][Central Government], whose decision shall be final and shall not be questioned in any Court.

Penalties for proceeding to sea after seizure.

11. (*1*) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent.

(*2*) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (*1*), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(*3*) Any expenses ordered to be paid under sub-section (*2*) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of a fine. V of 1898.

Power to enter dockyards, etc.

12. (*1*) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(*2*) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure, 1898, shall apply in the case of all searches made under this section. V of 1898.

Courts by which and conditions subject to

13. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the [1][Central Government]. which offences may be tried.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Indemnity.

THE SCHEDULE—[ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.] Rep. by the Indian Naval Armament (Amendment) Act, 1937 (2 of 1937), s. 6.

THE WORKMEN'S COMPENSATION ACT, 1923.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

WORKMEN'S COMPENSATION.

3. Employer's liability for compensation.
4. Amount of compensation.
5. Method of calculating wages.
6. Review.
7. Commutation of half-monthly payments.
8. Distribution of compensation.
9. Compensation not to be assigned, attached or charged.
10. Notice and claim.
10A. Power to require from employers statements regarding fatal accidents.
10B. Reports of fatal accidents.
11. Medical examination.
12. Contracting.
13. Remedies of employer against stranger.
14. Insolvency of employer.

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[1] Subs. by the A. O. 1937 for "L. G."

SECTIONS.

15. Special provisions relating to masters and seamen.
16. Returns as to compensation.
17. Contracting out.
18. Proof of age.
18A. Penalties.

CHAPTER III.

COMMISSIONERS.

19. Reference to Commissioners.
20. Appointment of Commissioners.
21. Venue of proceedings and transfer.
22. Form of application.
22A. Power of Commissioner to require further deposit in cases of fatal accident.
23. Powers and procedure of Commissioners.
24. Appearance of parties.
25. Method of recording evidence.
26. Costs.
27. Power to submit cases.
28. Registration of agreements.
29. Effect of failure to register agreement.
30. Appeals.
30A. Withholding of certain payments pending decision of appeal.
31. Recovery.

CHAPTER IV.

RULES.

32. Power of the Provincial Government to make rules.
33. [*Repealed.*]
34. Publication of rules.
35. Rules to give effect to arrangements with other countries for the transfer of money paid as compensation.

SCHEDULE I.—LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT.
SCHEDULE II.—LIST OF PERSONS WHO, SUBJECT TO THE PROVISIONS OF SECTION 2 (*1*) (*n*), ARE INCLUDED IN THE DEFINITION OF WORKMEN.
SCHEDULE III.—LIST OF OCCUPATIONAL DISEASES.
SCHEDULE IV.—COMPENSATION PAYABLE IN CERTAIN CASES.

ACT NO. VIII OF 1923.[1]

[*5th March, 1923.*]

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Workmen's Compensation Act, 1923.

(*2*) It extends[2] to [3][all the whole ~~Provinces~~ of India], ~~including~~ [4]* * ~~the Sonthal Parganas~~ except the State of Jammu & Kashmir

(*3*) It shall come into force on the first day of July, 1924.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" and "minor" mean respectively a person who is not and a person who is under the age of fifteen years;

(*b*) "Commissioner" means a Commissioner for Workmen's Compensation appointed under section 20;

(*c*) "compensation" means compensation as provided for by this Act;

[5][(*d*) "dependant" means any of the following relatives of a deceased workman, namely:—

(*i*) a [6][widow], minor legitimate son, and unmarried legitimate daughter, or a widowed mother; and

(*ii*) if wholly or in part dependent on the earnings of the workman at the time of his death, a [7][widower], a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, [1][a minor child of a deceased daughter where no parent of the child is alive], or, where no parent of the workman is alive, a paternal grandparent ;]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 313, and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 37.

This Act has been amended in its application to Bengal by the Bengal Touts Act, 1942 (Ben. 5 of 1942), and the Workmen's Compensation (Bengal Amendment) Act, 1942 (Ben. 6 of 1942).

[2] This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch., and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[3] Subs. by the A. O. 1948 for "the whole of British India".

[4] The words "British Baluchistan and" rep. by the A. O. 1948.

[5] Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 2, for the original clause.

[6] Subs. by the Workmen's Compensation (Amendment) Act. 1938 (9 of 1938), s. 2, for "wife".

[7] Subs. by s. 2, *ibid.*, for "husband".

(*e*) "employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;

(*f*) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

(*g*) "partial disablement" means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time: provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement ;

(*h*) "prescribed" means prescribed by rules made under this Act ;

(*i*) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of [3][the ~~Central Legislature or of any Legislature in a Province of India~~] providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the [4][~~Provincial~~ State Government], by notification in the [5][Official Gazette], to be a qualified medical practitioner for the purposes of this Act ; 21 & 22 Vict., c. 90.

Central Act, Provincial Act or an act of the Legislature of a Part A State or Part B State

[6]* * * * *

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 2.

[2] In the application of the Act to Bengal, a new clause (*ff*) has been ins. here by the Workmen's Compensation (Bengal Amendment) Act, 1942 (Ben. 6 of 1942), s.3.

[3] Subs. by the A. O. 1948 for "any Legislature in British India".

[4] Subs. by the A. O. 1937 for "L. G."

[5] Subs. by the A. O. 1937 for "local official Gazette".

[6] Cl. (*j*) was rep. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 2.

(*k*) "seaman" means any person forming part of the crew of any [1]* * ship, but does not include the master of [2][the] ship ;

(*l*) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per cent.;

(*m*) "wages" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment ;

(*n*) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(*i*) a railway servant as defined in section 3 of the Indian Railways Act, 1890, not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or IX of 1890

(*ii*) employed [3]* * * * on monthly wages not exceeding [4][four] hundred rupees, in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing ; but does not include any person working in the capacity of a member of ~~His Majesty's naval, military or air forces~~ to Armed forces of the Union [5]* * * *; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

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[1] The word "registered" rep. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 2.

[2] Subs. by s. 2, *ibid.*, for "any such".

[3] The words "either by way of manual labour or" rep. by s. 2, *ibid*.

[4] Subs. by the Workmen's Compensation (Amendment) Act, 1946 (1 of 1946), s. 2, for "three".

[5] The words "or of the Royal Indian Marine Service" rep. by the A. O. 1937.

(*2*) The exercise and performance of the powers and duties of a local authority or of any department [1][acting on behalf of the ~~Crown~~] shall, Govt. for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

[2][(*3*) The [3][State ~~Provincial~~ Government], after giving, by notification[4] in the [5][Official Gazette], not less than three manths' notice of [6][its] intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which [7][it] is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply [8][within the State ~~Province~~] to such classes of persons:

Provided that in making such addition the [3][State ~~Provincial~~ Government] may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.]

CHAPTER II.

WORKMEN'S COMPENSATION.

Employer's liability for compensation.

3. (*1*) If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

Provided that the employer shall not be so liable—

(*a*) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding [9][seven] days;

(*b*) in respect of any [10][injury, not resulting in death, caused by] an accident which is directly attributable to—

(*i*) the workman having been at the time thereof under the influence of drink or drugs, or

(*ii*) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(*iii*) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen [11]* * *

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[1] Subs. by the A. O. 1937 for "of the Govt."

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933). s. 2, for the original sub-section.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] For such a notification, *see* Gazette of India, 1935, Pt. I, p. 745.

[5] Subs. by the A. O. 1937 for "Gazette of India".

[6] Subs. by the A. O. 1937 for "his".

[7] Subs. by the A. O. 1937 for "he".

[8] Ins. by the A. O. 1937.

[9] Subs. by s. 3 of Act 15 of 1933 for "ten".

[10] Subs. by s. 3, *ibid.*, for "injury to a workman resulting from".

[11] The word "or" and cl. (*c*) were rep. by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 2.

(*2*)[1][If a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein as an occupational disease peculiar to that employment], or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in [2][Part B of] Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment [3][in the same kind of employment].

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(*3*) The [4][State ~~Provincial~~ Government], after giving, by notification in the [5][Official Gazette] not less than three months' notice of [6][its] intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which [7][within the State ~~Province~~] shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (*2*) shall thereupon apply [7][within the State ~~Province~~] as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(*4*) Save as provided by sub-sections (*2*) and (*3*), no compensation shall be payable to a workman in respect of any disease unless the disease is [8]* * directly attributable to a specific injury by accident arising out of and in the course of his employment.

(*5*) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person ; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury .

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 3, for "If a workman employed in any employment involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, or in the loading, unloading or transport of any merchandise, or in any work in connection with animals infected with anthrax, contracts the disease of anthrax". The words "or animal carcasses . . . with anthrax" had been subs. by the Workmen's Compensation (Amendment) Act, 1926 (29 of 1926), s. 2, for "hides or skins".

[2] Ins. by Act 9 of 1938, s. 3.

[3] Added by s. 3, *ibid*.

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] Subs. by the A. O. 1937 for "Gazette of India".

[6] Subs. by the A. O. 1937 for "his".

[7] Ins. by the A. O. 1937.

[8] The words "solely and" rep. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 3.

(*a*) if he has instituted a claim to compensation in respect of the injury beore a Commissioner ; or

(*b*) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

Amount of compensation.

4. [1][(*1*) Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—

(*a*) Where death results from the injury—

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(*ii*) in the case of a minor—two hundred rupees ;

(*b*) Where permanent total disablement results from the injury—

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(*ii*) in the case of a minor—twelve hundred rupees ;

(*c*) Where permanent partial disablement results from the injury—

(*i*) in the case of an injury specified in Schedule **I**, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(*ii*) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury ;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries ;

(*d*) Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 4, for the original sub-section.

(*i*) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(*ii*) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees:

Provided that—

(*a*) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be: and

(*b*) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.]

(*2*) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

Method of calculating wages.

[1][5. *[2][In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated] as follows, namely:—

(*a*) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period ;

[3][(*b*) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the

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[1] The original s. 5 had been re-numbered as sub-section (*1*) of that section by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 3. The brackets and figure "(*1*)" were rep. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 4.

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1939 (13 of 1939), s. 2, with effect from 30th June, 1934, for "For the purposes of this Act the monthly wages of a workman shall be calculated". The words "this Act" had been subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 5, for "section 4".

[3] Ins. by Act 15 of 1933, s. 5.

workman shall be [1]* * the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality ;]

[2][(*c*)] in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

Explanation.—A period of service shall, for the purposes of [4][this [5][section]] be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

[6]*

Review.

6. (*1*) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner, on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(*2*) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

Commutation of half-monthly payments.

7. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Distribution of compensation.

8. [7][(*1*) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation:

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[1] The words "deemed to be" rep. by the Workmen's Compensation (Amendment) Act, 1939 (13 of 1939), s. 2, with effect from 30th June, 1934.

[2] The original cl. (*b*) was relettered (*c*) by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 5.

[3] The proviso was rep. by s. 5, *ibid.*

[4] Subs. by s. 3 of the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), for "this section".

[5] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 4, for "sub-section".

[6] Sub-section (*2*), ins. by Act 5 of 1929, s. 3, was rep. by s. 5 of Act 15 of 1933.

[7] Subs. by s. 4 of Act 5 of 1929 for the original sub-sections.

[1][Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.]

(*2*) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(*3*) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.]

(*4*) On the deposit of any money under sub-section (*1*) [2][as compensation in respect of a deceased workman] the Commissioner [3][shall deduct] therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding [4][twenty-five rupees] and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

[5][(*5*) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (*4*), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

(*6*) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may, in other cases, pay the money to the person entitled thereto.

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 6, for the original proviso.

[2] Ins. by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 4.

[3] Subs. by Act 15 of 1933, s. 6, for "may deduct".

[4] Subs. by s. 6, *ibid.*, for the original words.

[5] Sub-sections (5) to (7) were subs. for the original sub-section (5) by Act 5 of 1929, s. 4.

(*7*) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct ; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in this behalf, order that the payment be made during the disability to any dependant of the workman or to any other person, whom the Commissioner thinks best fitted to provide for the welfare of the workman.]

[1][(*8*)] Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependent is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case:

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

[2][(*9*) Where the Commissioner varies any order under sub-section (*8*) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 31.]

Compensation not to be assigned, attached or charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Notice and claim.

10. (*1*) [3][No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within one year of the occurrence of the accident or, in case of death, within one year from the date of death.]

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[1] The original sub-section (*6*) was re-numbered (*8*) by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 4.

[2] Ins. by s. 4, *ibid*.

[3] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 5, for the original words.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (*2*) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

[1][Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the [2][entertainment of a claim]—

(*a*) if the claim is [3][preferred] in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or

(*b*) if the employer [4][or any one of several employers or any person responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed] had knowledge of the accident from any other source at or about the time when it occurred:]

Provided, further, that the Commissioner may [5][entertain] and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not benn [6][preferred], in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or [7][prefer] the claim, as the case may be, was due to sufficient cause.

(*2*) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon [8][any one of] several employers, or upon any person [9]* responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

[10][(*3*) The [11][~~Provincial~~ State Government] may require that any prescribed class of employers shall maintain at their premises at which workmen are

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 7.

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 5, for " maintenance of proceedings ".

[3] Subs. by s. 5, *ibid.*, for " made ".

[4] Ins. by s. 5, *ibid.*

[5] Subs. by s. 5, *ibid.*, for " admit "..

[6] Subs. by s. 5, *ibid.*, for " instituted ".

[7] Subs. by s. 5, *ibid.*, for " institute ".

[8] Subs. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I, for " any one or ".

[9] The word " directly " rep. by Act 9 of 1938, s. 5.

[10] Subs. by Act 15 of 1933, s. 7, for the original sub-section (*3*).

[11] Subs. by the A. O. 1937 for " L. G."

employed a notice-book, in the prescribed form, which shall be readily accessible at all reasonable times to any injured workman employed on the presimes and to any person acting *bonâ fide* on his behalf.

(*4*) A notice under this section may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice-book is maintained, by entry in the notice-book.]

Power to require from employers statements regarding fatal accidents.

[1][**10A.** (*1*) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(*2*) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(*3*) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(*4*) Where the employer has so disclaimed liability, the Commissioner, after such enquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other further information as he may think fit.

Reports of fatal accidents.

10B. (*1*) Where, by any law for the time being in force, notice is required to be given to any authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within seven days of the death, send a report to the Commissioner giving the circumstances attending the death:

Provided that where the [2][~~Provincial~~ State Government] has so prescribed the person required to give the notice may instead of sending such report to the Commissioner send it to the authority to whom he is required to give the notice.

(*2*) The [2][~~Provincial~~ State Government] may, by notification in the [3][Official Gazette], extend the provisions of sub-section (*1*) to any class of premises other than those coming within the scope of that sub-section, and may, by such notification, specify the persons who shall send the report to the Commissioner.]

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[1] Ss. 10A and 10B were ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 8.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "local official Gazette".

Medical examination.

11. (*1*) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(*2*) if a workman, on being required to do so by the employer under sub-section (*1*) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(*3*) If a workman, before the expiry of the period within which he is liable under sub-section (*1*) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(*4*) Where a workman, whose right to compensation has been suspended under sub-section (*2*) or sub-section (*3*), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(*5*) Where under sub-section (*2*) or sub-section (*3*) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (*1*) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(*6*) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, [1][if it is proved that the workman has not thereafter been regularly attended by a qualified medical practitioner or having been so attended has deliberately failed to follow his instructions and that such refusal, disregard or failure was unreasonable] in the cirmustances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner [1][whose instructions he had followed], and compensation, if any, shall be payable accordingly.

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 6, for the original words.

Contracting.

12. (*1*) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(*2*) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, [2][or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation,] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(*3*) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(*4*) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of employer against stranger.

13. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency of employer.

14. (*1*) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 6.

[2] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 9.

(*2*) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(*3*) Where in any case such as is referred to in sub-section (*1*) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman:

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

(*4*) There shall be deemed to be included among the debts which
I of 1909. under section 49 of the Presidency-towns Insolvency Act, 1909, or under
of 1920. section 61 of the Provincial Insolvency Act, 1920, or under section 230
I of 1913. of the Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(*5*) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(*6*) The provisions of sub-section (*4*) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (*3*), but

(Chapter II.—Workmen's Compensation.)

otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (*1*).

(*7*) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of [1]* ships or seamen subject to the following modifications, namely:—

(*1*) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(*2*) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(*3*) Where an injured master or seaman is discharged or left behind in any part of India or ~~His~~ Majesty's dominions or in any other ~~a~~ foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the [2][Central Government] or any [3][~~Provincial~~ State Government] shall, in any proceedings for enforcing the claim, be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made ;

(*b*) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and

(*c*) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused ;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

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[1] The word "registered" rep. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 10.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "L. G."

(*Chapter II.—Workmen's Compensation.*)

[1]* * * * *

[1][(*4*)] No [2][half-monthly payment] shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being ~~in~~ [3][the Provinces] relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

[4][(*5*) No compensation shall be payable under this Act in respect of any injury in respect of which provision is made for payment of a gratuity, allowance or pension under the War Pensions and Detention Allowances (Mercantile Marine, etc.) Scheme, 1939, or the War Pensions and Detention Allowances (Indian Seamen, etc.) Scheme, 1941, made under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or under the War Pensions and Detention Allowances (Indian Seamen) Scheme, 1942, made by the Central Government.

3 Geo., 83.

(*6*) Failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

(*a*) an application has been made for payment in respect of that injury under any of the schemes referred to in the preceding clause, and

(*b*) the ~~Provincial~~ Government certifies that the said application was made in the reasonable belief that the injury was one in respect of which the scheme under which the application was made makes provision for payments, and that the application was rejected or that payments made in pursuance of the application were discontinued on the ground that the injury was not such an injury, and

(*c*) the proceedings under this Act are commenced within one month from the date on which the said certificate of the Provincial Government was furnished to the person commencing the proceedings.]

Returns as to compensation.

16. The [5][~~Provincial~~ State Government] may, by notification in the [6][Official Gazette], direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the [1][~~Provincial~~ State Government] may direct.

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[1] The original cl. (*4*) was rep., and the original cl. (*5*) was renumbered (*4*), by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 7.

[2] Subs. by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I, for "monthly payment".

[3] Subs. by the A. O. 1948 for "British India".

[4] Subs. by the Workmen's Compensation (Amendment) Act, 1942 (1 of 1942), s. 2, with effect from 3rd September, 1939, for the former cl. which had been ins., with effect from the same date, by the Workmen's Compensation (Second Amendment) Act, 1939 (42 of 1939), s. 2.

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "Gazette of India".

Contracting out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act.

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, [2][a valid certificate granted in respect of such person under section 12 or section 52 of the Factories Act, 1934], before the occurrence of the injury shall be conclusive proof of the age of such person. XII of 1911.

Penalties.

[3][**18A.** (*1*) Whoever—

(*a*) fails to maintain a notice-book which he is required to maintain under sub-section (*3*) of section 10, or

(*b*) fails to send to the Commissioner a statement which he is required to send under sub-section (*1*) of section 10A, or

(*c*) fails to send a report which he is required to send under section 10B, or

(*d*) fails to make a return which he is required to make under section 16,

shall be punishable with fine which may extend to one hundred rupees.

(*2*) No prosecution under this section shall be instituted except by or with the previous sanction of a Commissioner, and no Court shall take cognizance of any offence under this section, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.]

CHAPTER III.

COMMISSIONERS.

Reference to Commissioners.

19. (*1*) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by [4][a Commissioner].

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 8, for a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, 1911".

[3] S. 18A was ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 11.

[4] Subs. by the Workmen's Compensation (Amendment) Act 1933 (15 of 1933), s. 12, for "the Commissioner".

(*2*) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

Appointment of Commissioners.

20. (*1*) The [1][State Provincial Government] may, by notification in the [2][Official Gazette], appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

[3][(*2*) Where more than one Commissioner has been appointed for any local area, the [1][State ~~Provincial~~ Government] may, by general or special order, regulate the distribution of business between them.]

[3][(*3*)] Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

[3][(*4*)] Every Commissioner shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Venue of proceedings and transfer.

21. (*1*) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before [4][a Commissioner] for the local area in which the accident took place which resulted in the injury:

Provided that, where the workman is the master of a [5]* ship or a seaman, any such matter may be done by or before [4][a Commissioner] for the local area in which the owner or agent of the ship resides or carries on business.

(*2*) If a Commissioner is satisfied [6][that any matter arising out of any proceedings pending before him] can be more conveniently dealt with by any other Commissioner, whether in the same ~~Province~~ State or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings:

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

[3] Sub-section (*2*) was ins., and the original sub-sections (*2*) and (*3*) were re-numbered (*3*) and (*4*), by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 13.

[4] Subs. by Act 15 of 1933, s. 14, for "the Commissioner".
s. 14, for "the Commissioner".

[5] The word "registered" rep. by s. 14, *ibid.*

[6] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 9, for "by any party to any proceedings under this Act pending before him that such matter".

[1][Provided that the Commissioner shall not, where any party to the proceedings has appeared before him, make any order of transfer relating to the distribution among dependants of a lump sum without giving such party an opportunity of being heard:]

Provided [1][further] that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same ~~Province~~ State save with the previous sanction of the State [2][~~Provincial~~ Government] or to a Commissioner in another ~~Province~~ State save with the previous sanction of [3][the ~~Provincial~~ State Government of that ~~Province~~ State], unless all the parties to the proceedings agree to the transfer.

(*3*) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(*4*) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (*2*), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report. State

[4][(*5*) The [2][~~Provincial~~ Government] may transfer any matter from any Commissioner appointed by it to any other Commissioner appointed by it.]

Form of application.

22. (*1*) No application for the settlement of any matter by a Commissioner, [5][other than an application by a dependant or dependants for compensation] shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(*2*) [6][An application to a Commissioner] may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

(*a*) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;

(*b*) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 9.

[2] Subs. by the A. O. 1937 for "L. G."

[3] Subs. by the A. O. 1937 for "the G. G. in C."

[4] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 14.

[5] Ins. by s. 15, *ibid.*

[6] Subs. by Act 15 of 1933, s. 15, for "where any such question has arisen, the application".

(*c*) the names and addresses of the parties ; and

(*d*) [1][except in the case of an application by dependants for compensation] a concise statement of the matters on which agreement has and [2][of] those on which agreement has not been come to.

(*3*) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Power of Commissioner to require further deposit in cases of fatal accident.

[3][**22A.** (*1*) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(*2*) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.]

Powers and procedure of Commissioners.

23. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects, [4][and the Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898].

1908.

1898.

Appearance of parties.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or [5][by an official of an Insurance Company or registered Trade Union authorised in writing by such person or, with the permission of the Commissioner, by any other person so authorised].[6]

Method of recording evidence.

25. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 15.

[2] Subs. by the Repealing and Amending Act, 1925 (37 of 1925), s. 2 and Sch. I, for "on".

[3] Ins. by Act 15 of 1933, s. 16.

[4] Ins. by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 5.

[5] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 10, for "other person authorised in writing by such person".

[6] In the application of the Act to Bengal, new ss. 24A and 24B have been ins. here by the Workmen's Compensation (Bengal Amendment) Act, 1942 (Ben. 6 of 1942), s. 4.

Provided further that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

26. All costs, incidental to any proceedings before a Commissioner, shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Power to submit cases.

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Registration of agreements.

28. (*1*) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable [1][to a woman or a person under a legal disability] [2]* * * * a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner:

Provided that—

(*a*) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned ;

[3]* * * * * * *

(*c*) the Commissioner may at any time rectify the register ;

(*d*) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable [1][to a woman or a person under a legal disability] [4]* * * * ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement [5][and may make such order] including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1929 (5 of 1929), s. 6, for " to a person under a legal disability ".

[2] The words " or to a dependant " rep. by the Repealing and Amending Act, 1924 (7 of 1924), s. 3 and Sch. II.

[3] Cl. (*b*) rep. by Act 5 of 1929, s. 6.

[4] The words " or to any dependant " rep. by Act 7 of 1934, s. 3 and Sch. II.

[5] Subs. by s. 2 and Sch. I, *ibid.*, for " or may make such order ".

(*2*) An agreement for the payment of compensation which has been registered under sub-section (*1*) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

of 1872.

Effect of failure to register agreement.

29. Where a memorandum of any agreement the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (*1*) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workmen by way of compensation whether under the agreement or otherwise.

Appeals.

30. (*1*) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

- (*a*) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (*b*) an order refusing to allow redemption of a half-monthly payment;
- (*c*) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (*d*) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (*2*) of section 12; or
- (*e*) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (*b*), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

[1][Provided further that no appeal by an employer under clause (*a*) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]

(*2*) The period of limitation for an appeal under this section shall be sixty days.

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 17.

(*3*) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to appeals under this section. IX of 1908.

Withholding of certain payments pending decision of appeal.

[1][**30A.** Where an employer makes an appeal under clause (*a*) of sub-section (*1*) of section 30, the Commissioner may, and if so directed by the High Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.]

Recovery.

31. The Commissioner may recover as an arrear of land-revenue any amount payable by any person under this Act, whether under an agreement for the payment of compensation or otherwise, and the Commissioner shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.[2] I of 1890.

CHAPTER IV.

RULES.

Power of the Provincial Government to make rules.

32. (*1*) The [3][[illegible] ~~Provincial~~ Government] may make rules[4] to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 6 when not accompanied by a medical certificate;

(*b*) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (*1*) of section 11;

(*c*) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Act and by the parties in such cases;

(*d*) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;

(*e*) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;

(*f*) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;[5]

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 18.

[2] In the application of the Act to Bengal, a new s. 31A has been ins. here by the Bengal Touts Act, 1942 (Ben. 5 of 1942), s. 12.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] For the Workmen's Compensation Rules, 1924, *see* Gen. R. & O., Vol. V, p. 262.

[5] In the application of the Act to Bengal, new clauses (*ff*), (*ff1*) and (*ff2*) have been ins. here by the Workmen's Compensation (Bengal Amendment) Act, 1942 (Ben. 6 of 1942), s. 5.

(*g*) for prescribing the form and manner in which memoranda of agreements shall be presented and registered ;

(*h*) for the withholding by Commissioners, whether in whole or in part of half-monthly payments pending decision on applications for review of the same ; [1]*

[1]* * * * * * *

[1][(*i*) for regulating the scales of costs which may be allowed in proceedings under this Act ;

(*j*) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act ;

(*k*) for the maintenance by Commissioners of registers and records of proceedings before them ;

(*l*) for prescribing the classes of employers who shall maintain notice-books under sub-section (*3*) of section 10, and the form of such notice-books ;

(*m*) for prescribing the form of statement to be submitted by employers under section 10A ; and

(*n*) for prescribing the cases in which the report referred to in section 10B may be sent to an authority other than the Commissioner].

33. [*Power of Local Government to make rules.*] *Rep. by the A. O. 1937.*

Publication of rules.

34. (*1*) The power to make rules conferred by [2][section 32] shall be subject to the condition of the rules being made after previous publication.

X of 1897.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897, as that after which a draft of rules proposed to be made under section 32 [3]* * will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(*3*) Rules so made shall be published in [4]* * * the [5][Official Gazette] [6]* * * and, on such publication, shall have effect as if enacted in this Act.

Rules to give effect to arrange-

[7][**35.** [8][(*1*)] The [9][Central Government] may, by notification in the [10][Official Gazette], make rules for the transfer [11][~~to any Acceding State~~

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[1] The word "and" at the end of cl. (*h*) and the original cl. (*i*) were rep., and the new cls. (*i*) to (*n*), which were the same as cls. (*a*) to (*f*) of s. 33, were ins., by the A. O. 1937.

[2] Subs. by the A. O. 1937 for "sections 32 and 33".

[3] The words and figures "or section 33" rep. by the A. O. 1937.

[4] The words "the Gazette of India or" rep. by the A. O. 1937.

[5] Subs. by the A. O. 1937 for 'local official Gazette".

[6] The words "as the case may be" rep. by the A. O. 1937.

[7] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 15.

[8] The original s. 35 was re-numbered as sub-section (*1*) of that section by the Workmen's Compensation (Amendment) Act, 1937 (7 of 1937), s. 2.

[9] Subs. by the A. O. 1937 for "G. G. in C."

[10] Subs. by the A. O. 1937 for "Gazette of India".

[11] Ins. by the A. O. 1948.

ments with other countries for the transfer of money paid as compensation.

~~or~~] to any part of His Majesty's Dominions or to any other country of money [1][deposited with] a Commissioner under this Act [2][which has been awarded to or may be due to,] any person residing or about to reside in such [3]~~[State]~~, part or country and for the receipt [4][, distribution] and administration in any State [5]~~[the Provinces]~~ of any money [6][deposited] under the law relating to workmen's compensation [3][~~in any Acceding State or~~] in any part of His Majesty's Dominions or in any other country, [7][which has been awarded to, or may be due to,] any person residing or about to reside in [5]~~[the Provinces.~~] any State

[4][Provided that no sum deposited under this Act in respect of fatal accidents shall be so transferred without the consent of the employer concerned until the Commissioner receiving the sum has passed orders determining its distribution and apportionment under the provisions of sub-sections (*4*) and (*5*) of section 8.

(*2*) Where money deposited with a Commissioner has been so transferred in accordance with the rules made under this section, the provisions elsewhere contained in this Act regarding distribution by the Commissioner of compensation deposited with him shall cease to apply in respect of any such money.]

SCHEDULE I.

[*See sections 2* (*1*) *and 4.*]

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1937 (7 of 1937), s. 2, for "paid up".

[2] Subs. by s. 2, *ibid.*, for "for the benefit of".

[3] Ins. by the A. O. 1948.

[4] Ins. by Act 7 of 1937, s. 2.

[5] Subs. by the A. O. 1948 for "British India'.

[6] Subs. by Act 7 of 1937, s. 2, for "awarded".

[7] Subs. by s. 2, *ibid.*, for "and applicable for the benefit of".

SCHEDULE II.

[*See section 2 (1) (n).*]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (*n*) and subject to the provisions of that section, that is to say, any person who is—

[1][(*i*) employed, otherwise than in a clerical capacity or on a railway, in connection with the operation or maintenance of [2][a lift or a vehicle propelled by steam or other mechanical power or by electricity] ; or

(*ii*) employed otherwise than in a clerical capacity in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been employed in any manufacturing process, as defined in [3][clause (*g*) of section 2 of the Factories Act, 1934], or in any kind of work whatsoever incidental to or connected with any such manufacturing process or with the article made, and steam, water or other mechanical power or electrical power is used ; or XXV of 1934.

(*iii*) employed for the purpose of making, altering, repairing, ornamenting, finishing or otherwise adapting for use, transport or sale any article or part of an article in any premises wherein or within the precincts whereof on any one day of the preceding twelve months, fifty or more persons have been so employed ; or

(*iv*) employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed ; or

(*v*) employed, in any mine as defined in clause (*f*) of section 3 of the Indian Mines Act, 1923, in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground ; IV of 1923.

Provided that any excavation in which on no day of the preceding twelve months more than fifty persons have been

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[1] These clauses and the explanation were subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 21, for the original clauses.

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 11, for "mechanically propelled vehicles".

[3] Subs. by s. 11, *ibid.*, for "clause (4) of section 2 of the Indian Factories Act, 1911".

(*Schedule II.*)

employed or explosives have been used and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause ; or

(*vi*) employed as the master or as a seaman of—

(*a*) any ship which is propelled wholly or in part by steam or other mechanical power or by electricity or which is towed or intended to be towed by a ship so propelled, or

(*b*) any ship not included in sub-clause (*a*) of fifty tons net tonnage or over ; or

(*vii*) employed for the purpose of loading, unloading, fuelling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits of any port subject to the Indian Ports Act, 1908, of goods which have been discharged from or are to be loaded into any vessel ; or XV of 1908.

(*viii*) employed in the construction, repair or demolition of—

(*a*) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof ; or

(*b*) any dam or embankment which is twenty feet or more in height from its lowest to its highest point ; or

(*c*) any road, bridge, or tunnel ; or

(*d*) any wharf, quay, sea-wall or other marine work including any moorings of ships ; or

(*ix*) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same ; or

(*x*) employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal pipe-line, or sewer ; or

(*xi*) employed in the service of any fire brigade ; or

(*xii*) employed upon a railway as defined in clause (*4*) of section 3, and sub-section (*1*) of section 148 of the Indian Railways Act, 1890, either directly or through a sub-contractor, by a person fulfilling a contract with the railway administration ; or IX of 1890

(*xiii*) employed as an inspector, mail guard, sorter or van peon in the Railway Mail Service, or employed in any occupation ordinarily involving outdoor work in the Indian Posts and Telegraphs Department ; or

(*xiv*) employed, otherwise than in a clerical capacity, in connection with operations for winning natural petroleum or natural gas ; or

(*Schedule II.*)

(*xv*) employed in any occupation involving blasting operations ; or

(*xvi*) employed in the making of any excavation in which on any one day of the preceding twelve months more than fifty persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

(*xvii*) employed in the operation of any ferry boat capable of carrying more than ten persons ; or

(*xviii*) employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or

(*xix*) employed, otherwise than in a clerical capacity, in the generating, transforming or supplying of electrical energy or in the generating or supplying of gas ; or

(*xx*) employed in a lighthouse as defined in clause (*d*) of section 2 of the Indian Lighthouse Act, 1927 ; or XVII of 1927.

(*xxi*) employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures ; or

(*xxii*) employed in the training, keeping or working of elephants or wild animals ; or

[1][(*xxiii*) employed in the tapping of palm-trees or the felling or logging of trees, or the transport of timber by inland waters, or the control or extinguishing of forest fires ; or

(*xxiv*) employed in operations for the catching or hunting of elephants or other wild animals ; or]

[2][(*xxv*)] employed as a driver ; [1][or

(*xxvi*) employed in the handling or transport of goods in, or within the precincts of,—

(*a*) any warehouse or other place in which goods are stored, and in which on any one day of the preceding twelve months ten or more persons have been so employed, or

(*b*) any market in which on any one day of the preceding twelve months one hundred or more persons have been so employed ; or

(*xxvii*) employed in any occupation involving the handling and manipulation of radium or X-rays apparatus, or contact with radio-active substances.]

Explanation.—In this Schedule, "the preceding twelve months" relates in any particular case to the twelve months ending with the day on which the accident in such case occurred.

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 11.
[2] Original cl. (*xxiii*) re-numbered (*xxv*) by s. 11, *ibid*.

SCHEDULE III.

(*See section 3.*)

List of occupational diseases.

[1][PART A.

Occupational disease.	Employment.
Anthrax	Any employment— (*a*) involving the handling of wool, hair, bristles or animal carcases or parts of such carcases, including hides, hoofs and horns; or (*b*) in connection with animals infected with anthrax; or (*c*) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelæ.	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl. . .	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes . . .	Any process involving exposure to nitrous fumes.

PART B.]

Lead poisoning or its sequelæ [1][excluding poisoning by lead tetra-ethyl]	Any process involving the use of lead [2][or any of its preparations or compounds except tetra-ethyl].
Phosphorus poisoning or its sequelæ .	Any process involving the use of phosphorus or its preparations or compounds.
[3][Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene and its homologues, or the sequelæ of such poisoning.	Handling benzene or any of its homologues and any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelæ . .	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
[4][Arsenical poisoning or its sequelæ.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Pathological manifestations due to— (*a*) radium and other radio-active substances; (*b*) X-rays.	Any process involving exposure to the action of radium, radio-active substances, or X-rays.
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.]]

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[1] Ins. by the Workmen's Compensation (Amendment) Act, 1938 (9 of 1938), s. 12.

[2] Subs. by s. 12, *ibid.*, for "or its preparations or compounds".

[3] Ins. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 22.

[4] Subs. by Act 9 of 1938, s. 12, for the entry relating to "compressed air illness or its sequelæ".

[1][SCHEDULE IV.

(*See section 4.*)

Compensation payable in certain cases.

Monthly wages of the workman injured.		Amount of Compensation for— Death of Adult.	Permanent total Disablement of Adult.	Half-monthly payment as compensation for temporary Disablement of Adult.	
1		2	3	4	
More than	But not more than				
Rs.	Rs.	Rs.	Rs.	Rs.	A.
0	10	500	700	Half his monthly wages.	
10	15	550	770	5	0
15	18	600	840	6	0
18	21	630	882	7	0
21	24	720	1,008	8	0
24	27	810	1,134	8	8
27	30	900	1,260	9	0
30	35	1,050	1,470	9	8
35	40	1,200	1,680	10	0
40	45	1,350	1,890	11	4
45	50	1,500	2,100	12	8
50	60	1,800	2,520	15	0
60	70	2,100	2,940	17	8
70	80	2,400	3,360	20	0
80	100	3,000	4,200	25	0
100	200	3,500	4,900	30	0
[2][200	300	4,000	5,600	30	0
300	...	4,500	6,300	30	0]]

THE INDIAN COTTON CESS ACT, 1923.

CONTENTS.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Imposition of cotton cess.
4. Constitution of Indian Central Cotton Committee.
5. Incorporation of the Committee.

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[1] Subs. by the Workmen's Compensation (Amendment) Act, 1933 (15 of 1933), s. 23, for the original Schedule.

[2] Subs. by the Workmen's Compensation (Amendment) Act, 1946 (1 of 1946), s. 3, for the former entry which read " 200/.../4,000/5,600/30 0 ".

SECTIONS.
6. Delivery of monthly returns.
7. Collection of cess by Collector.
8. Collection of cess on exported cotton.
9. Finality of assessment and recovery of unpaid cess.
10. Power to inspect mills and take copies of records and accounts.
11. Information acquired to be confidential.
12. Application of proceeds of cess.
12A. Payment to Government of Burma.
13. Validation.
14. Dissolution of Committee.
15. Power of the Central Government to make rules.
16. Power of the Committee to make rules.
17. Publication of rules.

ACT NO. XIV OF 1923.[1]

[*16th March, 1923.*]

An Act to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the growing, marketing and manufacture of cotton in India; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Cotton Cess Act, 1923.

[2][(*2*) It extends to ~~all~~ the whole ~~Provinces~~ of India, ~~including~~ Berar ~~and~~ ~~the~~ Sonthal ~~Parganas~~] except the State of Jammu & Kashmir

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Collector" means, in reference to cotton consumed in a mill in [3][the Provinces], the Collector of the district in which the mill is situated [4][or any other officer appointed by the [5][Central Government] to perform the duties of a Collector under this Act];

(*b*) "the Committee" means the Indian Central Cotton Committee constituted under this Act;

(*c*) "cotton" means raw cotton, whether baled or loose, which has been ginned;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 59; and for Report of Joint Committee, *see ibid.*, 1923, Pt. V, p. 97.

[2] Subs. by the A. O. 1948 for the former sub-section which read "It extends to the whole of British India (including British Baluchistan and the Sonthal Parganas), and including also Berar". The last four words had been subs. by the A. O. 1937 for "except Aden".

[3] Subs. by the A. O. 1948 for "British India".

[4] Ins. by the Indian Cotton Cess (Amendment) Act, 1924 (1 of 1924), s. 2.

[5] Subs. by the A. O. 1937 for "L. G."

(*d*) "Customs-collector" and "customs-port" mean respectively a Customs-collector and a customs-port as defined in section 3 of the Sea Customs Act, 1878 ; VIII of 1878.

(*e*) "mill" means any place which is a factory as defined in section 2 of the ~~Indian~~ Factories Act, ~~1911~~ 1948[1], and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods as defined in section 3 of the [2]Cotton Duties Act, 1896 ; [3]* XII of 1911. II of 1896.

(*f*) "prescribed" means prescribed by rules made under this Act ;

[4]* * * * *

Imposition of Cotton Cess.

territories to which this Act extend or

[5]3. (*1*) There shall be levied and collected on all cotton [6]* * * ~~exported~~ extend from any customs-port to any port outside [7][the ~~Provinces~~] ~~or~~ consumed in any mill in [7][~~the Provinces~~ said territories] a cess at the rate of ~~two~~ four annas per standard bale of four hundred pounds avoirdupois, or, in the case of unbaled cotton, of ~~six pies~~ one anna per hundred pounds avoirdupois:

[8]* * * * *

[9][(*2*) The [10][Central Government] may, by notification[11] in the [12][Official Gazette], direct that the cess referred to in sub-section (*1*) shall be levied and collected on all cotton produced in India and exported by land from [7][~~the Provinces~~ territories comprised within Part A States and Part C States] to any foreign territory outside India which may be specified in the notification.]

Constitution of Indian Central Cotton Committee.

4. As soon as may be after the commencement of this Act, the [10][Central Government] shall cause to be constituted a Committee consisting of the following members, namely:—

(*i*) [13][the Vice-~~Chairman~~ President of the ~~Imperial~~ Indian Council of Agricultural Research] ;

[14][*ia*) the [15][Agricultural Commmissioner with the Government of India] [16]* * * ;]

[17][(*ii*) [18][five persons] to be nominated by the Central Government to

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[1] *See* now the Indian Factories Act, 1934 (25 of 1934), s. 2 (*j*).

[2] Rep. by the Indian Finance Act, 1926 (19 of 1926), s. 3.

[3] The word "and" rep. by the Indian Cotton Cess (Amendment) Act, 1939 (5 of 1939), s. 2.

[4] Cl. (*g*) which had been added by s. 2, *ibid.*, was rep. by the A. O. 1948.

[5] The original s. 3 was renumbered as sub-section (*1*) of that section by the Indian Cotton Cess (Amendment) Act, 1924 (1 of 1924), s. 3.

[6] The words "produced in India and either" rep. by the Indian Cotton Cess (Amendment) Act, 1947 (51 of 1947), s. 2, with effect from 15th August, 1947.

[7] Subs. by the A. O. 1948 for "British India".

[8] The proviso rep. by Act 51 of 1947, s. 2, with effect from 15th August, 1947.

[9] Ins. by Act 1 of 1924, s. 3.

[10] Subs. by the A. O. 1937 for "G. G. in C."

[11] For such notification, *see* Gen. R & O., Vol. V, p. 318.

[12] Subs. by the A. O. 1937 for "Gazette of India".

[13] Subs. by the Indian Cotton Cess (Amendment) Act, 1929 (14 of 1929), s. 2, for "the Agricultural Adviser to the G. of I."

[14] Ins. by s. 2, *ibid*.

[15] Subs. by the Repealing and Amending Act, 1939 (34 of 1939), s. 2 and Sch. I, for "Expert Adviser to the Imperial Council of Agricultural Research".

[16] The words "in agricultural matters" rep. by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Sch. II.

[17] Subs. by the A. O. 1937 for the original cl.

[18] Subs. by the A. O. 1948 for "six persons".

represent respectively the Agricultural Departments of the State ~~Provincial~~ Governments of Madras, Bombay, [1]* the United Provinces, [2][East Punjab], and the Central Provinces and Berar ;]

(*iii*) the Director General of Commercial Intelligence ;

(*iv*) [3][eight persons] nominated, respectively, by the East India Cotton Association, the Bombay Millowners' Association, the Bombay Chamber of Commerce, the Indian Merchants' Chamber, Bombay [4]* * * the Ahmedabad Millowners' Association, the Tuticorin Chamber of Commerce, the Upper India Chamber of Commerce, and the Empire Cotton Growing Corporation ;

[5][(*v*) four persons nominated by the Central Government to represent the cotton manufacturing or cotton ginning industry, of whom two shall be nominated to represent the industry in the ~~Central Provinces and Berar~~ Madhya Pradesh, one to represent the industry in Madras and one to represent the industry in [2]East Punjab] ;]

(*vi*) one person nominated by [6][the Central Government to represent] [7][West Bengal] ;

(*vii*) one person having knowledge of co-operative banking nominated by the [8][Central Government] ;

[9][(*viii*) two persons nominated by the Central Government to represent the cotton growing industry in each of the following Provinces, namely, Madras, Bombay, the United Provinces, East Punjab and the Central Provinces and Berar ;]

(*ix*) three persons nominated, respectively, by the Government of His Exalted Highness the Nizam of the Hyderabad State, by the Durbar of the Baroda State and by the Durbar of the Gwalior State ;

(*x*) one person nominated jointly by the Durbars of the Indian States in Rajputana and Central India ; and

(*xi*) such additional persons as the [8][Central Government] may, by notification in the [10][Official Gazette], appoint:

Provided that, if within the period prescribed in this behalf, any authority or other person fails to make any nomination which it or he is entitled to make under this section, the [8][Central Government] may,

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[1] The word "Sind" rep. by the A. O. 1948.
[2] Subs. by the A. O. 1948 for "the Punjab".
[3] Subs. by the A. O. 1948 for "nine persons".
[4] The words "the Karachi Chamber of Commerce" rep. by the A. O. 1948.
[5] Subs. by the A. O. 1937 for the original clause.
[6] Subs. by the A. O. 1937 for "the L. G. of".
[7] Subs. by the A. O. 1948 for "Bengal".
[8] Subs. by the A. O. 1937 for "G. G. in C."
[9] Subs. by the A. O. 1948 for the former cl. which had been subs. by the A. O. 1937 for the original cl. and amended by the Indian Cotton Cess (Amendment) Act, 1939 (5 of 1939), s. 3.
[10] Subs. by the A. O. 1937 for "Gazette of India".

(a) for items (viii), (ix) and (x), the following items shall be substituted, namely:

"(viii) nine persons nominated by the Central Government to represent the cotton growing industry, of whom two shall be nominated to represent the industry in Madras, two to represent the industry in Bombay, two to represent the industry in the United Provinces, two to represent the industry in the Central Provinces and Berar, and one to represent the industry in East Punjab;

(ix) seven persons nominated respectively by the Governments of the following Acceding States, namely, Mysore, the United State of Gwalior, Indore and Malwa (Madhya Bharat), the United State of Rajasthan, the United State of Vindhya Pradesh, the Patiala and East Punjab States Union, the United State of Kathiawar (Saurashtra) and Baroda; and"; and

LIX/48

[1][itself] appoint a member or members, as the case may be, to fill the vacancy or vacancies.

Incorporation of the Committee.

5. (*1*) The Committee so constituted shall be a body corporate by the name of the Indian Central Cotton Committee, having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

(*2*) [2][The Vice-Chairman of the Imperial Council of Agricultural Research] shall be *ex-officio* President of the Committee.

(*3*) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the [3][Central Government].

Delivery of monthly returns.

6. (*1*) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the preceding month, together with such further information in regard thereto as may be precribed:

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of cess by Collector.

7. (*1*) On receiving any return made under section 6, the Collector shall assess the cotton cess payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(*2*) If the owner of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (*1*) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner:

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill.

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[1] Subs. by the A. O. 1937 for "himself".

[2] Subs. by the Indian Cotton Cess (Amendment) Act, 1929 (14 of 1929), s. 3, for "The Agricultural Adviser to the G. of I."

[3] Subs. by the A. O. 1937 for G. G. in C."

Collection of cess on exported cotton.

[1][**8.** *(1)*] In respect of cotton exported by sea, the cess shall be assessed and levied by the Customs-collector at the customs-port of export and, subject to the provisions of this Act and of any rules made thereunder, shall, for all or any of the purposes of the Sea Customs Act, 1878, be deemed to be a duty of customs. VIII of 1878.

[2][*(2)* In respect of cotton exported by land on which the cess is leviable—

(a) where the cotton is exported to any territory which is foreign territory as defined in the Land Customs Act, 1924, XIX of 1924. the cess shall be assessed by such authorities and in such manner as may be prescribed, and shall, subject to the provisions of this Act and of any rules made thereunder, for all or any of the purposes of the Land Customs Act, 1924, XIX of 1924. be deemed to be a duty of land customs leviable under section 5 of the Indian Tariff Act, 1894[3]; VIII of 1894. and

(b) in any other case, the cess shall be assessed and levied by such authorities and in such manner as may be prescribed.

(3) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, IV of 1924. may make rules[4] providing, on such conditions as may be specified in the rules, for—

(a) the refund of the cess levied where cotton is exported by land and subsequently imported into India ; and

(b) the export by land, without payment of the cess, of cotton which is subsequently to be imported into India.]

Finality of assessment and recovery of unpaid cess.

9. *(1)* An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court.

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section *(1)* of that section, apply to the [5][Central Government] for the cancellation or modification of the assessment and, on such application, the [5][Central Government] may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land revenue.

Power to inspect mills and take copies of records and accounts.

10. *(1)* The Collector or any officer empowered by general or special order of the [5][Central Government] in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

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[1] The original s. 8 was renumbered as sub-section *(1)* of that section by the Indian Cotton Cess (Amendment) Act, 1924 (1 of 1924), s. 4.

[2] Subs. by the Indian Cotton Cess (Amendment) Act, 1925 (18 of 1925), s. 2, for the original sub-section (2) which was ins. by Act I of 1924, s. 4.

[3] Rep. by the Indian Tariff Act, 1934 (32 of 1934).

[4] For such rules, *see* Gen. R. & O., Vol. V, p. 318.

[5] Subs. by the A. O. 1937 for "L. G."

(*2*) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(*3*) Where any officer other than the Collector proposes to examine under sub-section (2) any record or account containing the description or formulæ of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

11. (*1*) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential. Information acquired to be confidential.

(*2*) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the [1][Central Government], he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

12. (*1*) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee. Application of proceeds of cess.

(*2*) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, with the previous approval of the [2][Central Government], decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in India, or for the improvement of and develo pment of the methods of growing marketing and marketing of Indian cotton

L1 +) U8

~~[3][12A. As soon as may be after the first day of April, 1937, the Committee shall pay to the Government of Burma, for the promotion of agricultural and technological research in the interests of the cotton industry in Burma, the sum of rupees forty-two thousand and sixty-six.]~~ Payment to Government of Burma.

13. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any Validation.

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[1] Subs. by the A. O. 1937 for "L. G.".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Ins. by the A. O. 1937.

defect in the constitution of the Committee or the Standing Finance Sub-Committee, if any.

Dissolution of Committee.

14. The [1][Central Government] may, by notification in the [2][Official Gazette], declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty [3][for the purposes of the Central Government] and this Act shall be deemed to have been repealed.

Power of the Central Government to make rules.

15. (*1*) The [1][Central Government] may make rules[4] for the purpose of carrying into effect all or any of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) for prescribing the time within which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies ;

(*b*) for prescribing the term of office of the members of the Committee ;

(*c*) for prescribing the circumstances in which and the authority by which any member may be removed ;

(*d*) for the holding of a minimum number of meetings of the Committee during any year ;

(*e*) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the [1][Central Government] ;

(*f*) for the definition of the powers of the Committee and of the Secretary to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed ;

(*g*) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any ;

(*h*) for the definition of the powers of the Committee and the Secretary in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creation and abolition of appointments of such officers or servants ;

(*i*) for the regulation of the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "Gazette of India".
[3] Ins. by the A. O. 1937.
[4] For such rules, *see* Gen. R. & O., Vol. V, p. 319.

(*j*) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee ;

(*k*) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee ;

(*l*) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;

(*m*) for defining the powers of the Committee, the Standing Finance Sub-Committee, if any, the President and the Secretary, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure ;

(*n*) for prescribing the maintenance of accounts of the receipts and expenditure of the Committee and providing for the audit of such accounts ;

(*o*) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed ;

(*p*) for determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested ;

(*q*) for prescribing the preparation of a statement showing the sums allotted to Provincial Departments of Agriculture or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year ;

(*r*) the assessment, levy, and payment of the cotton cess in respect of cotton exported by sea [1][or by land] ; and,

(*s*) any other matter which is to be or may be prescribed.

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[1] Ins. by the Indian Cotton Cess (Amendment) Act, 1924 (1 of 1924), s. 5.

Power of the Committee to make rules.

16. The Committee may, with the previous sanction of the [1][Central Government], make rules[2] consistent with this Act and with any rules made under section 15 to provide for all or any of the following matters, namely:—

(*a*) for the appointment of a Standing Finance Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee ;

(*b*) for prescribing the method of appointment, removal and replacement and the term of office of members of the Standing Finance Sub-Committee, and for the filling of vacancies therein ;

(*c*) for the appointment of the dates, times and places for meetings of the Committee and the Standing Finance Sub-Committee, and for regulating the procedure to be observed at such meetings ;

(*d*) for determining the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case ;

(*e*) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability ;

(*f*) for determining the contribution, if any, payable from the funds of the Committee to the provident fund ;

(*g*) for regulating generally all matters incidental to the provident fund and the investment thereof ;

(*h*) for defining the powers and duties of the Secretary of the Committee.

Publication of rules.

17. All rules made under section 15 or section 16 shall be published in the [3][Official Gazettee] and, on such publication, shall have effect as if enacted in this Act.

THE INDIAN OFFICIAL SECRETS ACT, 1923.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and application.
2. Definitions.
3. Penalties for spying.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] For such rules *see* Gen. R. & O., Vol. V, pp. 327-336.
[3] Subs. by the A. O. 1937 for "Gazette of India".

SECTIONS.
4. Communications with foreign agents to be evidence of commission of certain offences.
5. Wrongful communication, etc., of information.
6. Unauthorised use of uniforms ; falsification of reports, forgery, personation, and false documents.
7. Interfering with officers of the police or members of His Majesty's forces.
8. Duty of giving information as to commission of offences.
9. Attempts, incitements, etc.
10. Penalty for harbouring spies.
11. Search warrants.
12. Power to arrest.
13. Restriction on trial of offences.
14. Exclusion of public from proceedings.
15. Offences by companies, etc.
16. [*Repealed.*]

ACT NO. XIX OF 1923.[1]

[2nd April, 1923.]

An Act to consolidate and amend the law ~~in [2][the Provinces]~~ relating to official secrets.

WHEREAS the law in [2][the Provinces] relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911 ; and

XV of 1889.
V of 1904.
1 & 2 Geo. V, c. 28.

WHEREAS the Official Serects Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to [2][the Provinces] ; and

1 & 2 Geo. V, c. 28.
10 & 11 Geo. V. c. 75.

WHEREAS it is expedient that the law relating to official secrets in ~~[2][the Provinces]~~ should be consolidated and amended ;

It is hereby enacted as follows:—

Short title, extent and application.

1. (*1*) This Act may be called the Indian Official Secrets Act, 1923.

(*2*) It extends[3] to [4][all the Provinces of India], and applies also—

(*a*) to all subjects of His Majesty and servants of the Crown within [5][any Indian State] ; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1922, Pt. V, p. 210 ; and for Report of Select Committee, *see ibid.*, 1923, Pt. V, p. 61.

[2] Subs. by the A. O. 1948 for "British India".

[3] This Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[4] Subs. by the A. O. 1948 for "the whole of British India".

[5] Subs. by the A. O. 1937 for "the dominions of Princes and States in India in alliance with His Majesty".

2) It extends to the whole of India and applies also.—
i) to servants of the govt: and
ii) to citizens of India outside India:

(*b*) to all Indian subjects of His Majesty without and beyond [1][the Provinces].

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) any reference to a place belonging to Govt. ~~His Majesty~~ includes a place occupied by any department of the Government, whether the place is or is not actually vested in ~~His Majesty~~ Govt.;

[2]* * * * *

(*2*) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or relating any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;

(*3*) "document" includes part of a document;

(*4*) "model" includes design, pattern and specimen;

(*5*) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

(*6*) "Office under Govt. ~~His Majesty~~" includes any office or employment in or under any department of the Government or of the Government of the United Kingdom or of any British possession;

(*7*) "photograph" includes an undeveloped film or plate;

(*8*) "prohibited place" means—

(*a*) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, Govt. ~~His Majesty~~, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Cl. (*1a*), ins. by the A. O. 1937, was rep. by the A. O. 1948.

(*b*) any place not belonging to His ~~Majesty~~ govt. where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, ~~His Majesty~~, govt. or otherwise on behalf of ~~His Majesty~~ ; govt.

(*c*) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the [1][Central Government], by notification in the [2][Official Gazette], to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ;

(*d*) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired or stored otherwise than on behalf of ~~His Majesty~~ govt., which is for the time being declared by the [Central Government], by notification in the [2][Official Gazette], to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality ;

(*9*) " sketch " includes any photograph or other mode of representing any place or thing ; and

(9A) 'States' means all the territories for the time being comprised within Part A States & Part C States

(*10*) " Superintendent of Police " includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the [1][Central Government] [3]* * *.

Penalties for spying.

3. (*1*) If any person for any purpose prejudicial to the safety or interests of the State—

(*a*) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place ; or

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[1] Subs. by the A. O. 1937 for " G. G. in C."
[2] Subs. by the A. O. 1937 for " Gazette of India ".
[3] The words " or by any L. G. " rep. by the A. O. 1937.

(*b*) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ; or

(*c*) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy ;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of ~~His Mejesty~~ Govt or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State ; and if any sketch, plan, model, aricle, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communications with foreign agents to be evidence of commission of certain offences.

4. (*1*) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without [1][the Provinces], shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(*a*) a person may be presumed to have been in communication with a foreign agent if—

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[1] Subs. by the A. O. 1948 for "British India".

(*i*) he has, either within or without [1][the Provinces States], visited the address of a foreign agent or consorted or associated with a foreign agent, or

(*ii*) either within or without [1][the ~~Provinces~~ States], the name or address of, or any other information regarding a foreign agent has been found in his possession, or has been obtained by him from any other person ;

(*b*) the expression "foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without [1][the ~~Provinces~~ States], prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without [1][the ~~Provinces~~ States], committed, or attempted to commit, such an act in the interests of a foreign power ;

(*c*) any address, whether within or without [1][the ~~Provinces~~ States], in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

Wrongful communication, etc., of information.

5. (*1*) If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under ~~His Majesty,~~ Govt or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under ~~His~~ Majesty Govt or as a person who holds or has held a contract made on behalf of ~~His Majesty,~~ Govt or as a person who is or has been employed under a person who holds or has held such an office or contract—

(*a*) wilfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it ; or

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[1] Subs. by the A. O. 1948 for "British India".

(*b*) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State ; or

(*c*) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof ; or

(*d*) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information ;

he shall be guilty of an offence under this section.

(*2*) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(*3*) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(*4*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unauthorised use of uniforms ; falsification of reports, forgery, personation, and false documents.

6. (*1*) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

(*a*) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform ; or

(*b*) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or

(*c*) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document ; or

(*d*) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under ~~His Majesty~~, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement ; or Govt

(*e*) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military or air force authority appointed by or acting under the authority of ~~His Majesty~~ Govt, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp ;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(*a*) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof ; or

(*b*) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer ; or

(*c*) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid ;

he shall be guilty of an offence under this section.

(*3*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(*4*) The provisions of sub-section (*2*) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of ~~His Majesty~~ Ind, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State, to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

Interfering with officers of the police or members of His Majesty's forces.

7. (*1*) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of ~~His Majesty's~~ the Armed forces of the union engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

(*2*) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Duty of giving information as to commission of offences.

8. (*1*) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of ~~His Majesty's~~ the Armed forces of the union engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(*2*) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts, incitements, etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for harbouring spies.

10. (*1*) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(*2*) It shall be the duty of every person having harboured any such person as aforesaid or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(*3*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search warrants

11. (*1*) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(*2*) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(*3*) Where action has been taken by a police officer under sub-section (*2*) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

Power to arrest.

12. Notwithstanding anything in the Code of Criminal Procedure, 1898,—

7 of 1898.

(*a*) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence ;

(*b*) an offence under clause (*a*) of sub-section (*1*) of section 6 shall be a cognizable and bailable offence ; and

(*c*) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction on trial of offences.

13. (*1*) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the [1][appropriate Government]) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(*2*) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(*3*) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the [2][appropriate Government] [3]* * * or some officer empowered by the [2][appropriate Government] in this behalf:

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(*4*) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in [4][the Provinces] in which the offender may be found.

[5][(*5*) In this section, the appropriate Government means—

(*a*) in relation to any offences under section 5 not connected with a prohibited place or with a foreign power, the Provincial Government ; and

(*b*) in relation to any other offence, the Central Government.]

Exclusion of public from proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Offences by companies, etc.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence.

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[1] Subs. by the A. O. 1937 for " L. G."

[2] Subs. by the A. O. 1937 for " G. G. in C."

[3] The words " the L. G. " rep. by the A. O. 1937.

[4] Subs. by the A. O. 1948 for " British India ".

[5] Ins. by the A. O. 1937.

16. *[Repeals.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE INDIAN MERCHANT SHIPPING ACT, 1923.

CONTENTS.

PART I.

INTRODUCTORY.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Application of Act to ships propelled by electricity or mechanical power.
4. Exemption of public ships.
4A. *[Repealed.]*

PART II.

MASTERS AND SEAMEN.

5. Application.

Shipping Offices.

6. Shipping Offices.
7. Power to direct that business of shipping office be transacted at custom house office or elsewhere.
8. Business of shipping-masters.
9. Fees to be paid.
10. Prohibition on taking other remuneration at shipping office.

Certificates of Competency.

11. Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.
12. When officer deemed duly certificated.
13. Penalty for serving, etc., as a master, mate or engineer without a certificate.
14. Grades of certificates of competency.

SECTIONS.

15. Examinations for certificates.
16. Grant of certificates on passing examinations.
17. Certificates of service of Naval Officers.
18. Form of certificates.
19. Record of orders affecting certificates.
20. Loss of certificate.
21. Power to make rules as to grant of certificates of competency.
22. Production of certificates of competency to shipping-master.

Apprenticeships to the Sea Service.

23. Application of Act XIX of 1850.

Licences to supply Seamen.

24. Licences to supply seamen.
25. Penalties for engaging seamen without licence.
26. Penalty for receiving remuneration from seamen for shipping them.

Engagement of Seamen.

27. Agreements with crew.
28. Form and contents of the agreement.
29. Engagement of single seaman where agreement is made out of the Provinces.
30. Special provisions with regard to agreements with crew of foreign-going ships.
31. Renewal of running agreements in certain cases.
32. Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.
33. Changes in crew of foreign-going ship to be reported.
34. Certificate as to agreement with crew of foreign-going ship.
35. Certificate as to agreement with crew of home-trade ship.
36. Copy of agreement to be made accessible to the crew.
37. Alteration in agreement with the crew.

Employment of Young Persons.

37A. Definitions of "coasting-ship", "young lascar" and "young person".
37B. Employment of children.
37C. Engagement of young persons as trimmers or stokers.
37D. Medical examination of young persons.
37E. Maintenance of list or register of young persons in a ship.
37F. Penalty for contravention of sections 37B, 37C and 37D.
37G. Penalty for false representation by parent or guardian.

SECTIONS.

37H. Penalty for failure to produce medical certificate for inspection.

37I. Penalty for failure to keep or produce for inspection a register of young persons.

37J. Power to make rules.

Engagement of Lascars by Masters of Foreign Ships.

38. Engagements between masters of foreign ships and lascars or native seamen.

39. Penalty for master of foreign ship illegally engaging native seamen.

40. Power to prohibit engagement of native seamen.

41. Power to Board British ships and muster seamen.

Discharge of Seamen.

42. Discharge before shipping-master.

43. Certificate of discharge and return of certificate to officer on discharge.

43A. Certificate as to work of seamen.

Payment of Wages.

44. Master to deliver account of wages.

45. Deductions from wages of seamen.

46. Payment of wages before shipping-master.

47. Time of payment of wages.

48. Settlement of wages.

49. Decision of questions by shipping-masters.

50. Power of shipping-master to require production of ship's papers.

51. Rate of exchange for payment of seamen in Indian money.

Advance and Allotment of Wages.

52. Advances and allotments.

53. Regulations as to allotment notes.

54. Payment of sums allotted.

Rights of Seamen in respect of Wages.

55. Right to wages and provisions.

56. Right to recover wages and salvage not to be forfeited.

57. Wages not to depend on freight.

58. Wages on termination of service by wreck or illness.

58A. Special provision for ship-wrecked lascars.

59. Wages not to accrue during refusal to work or imprisonment.

60. Power to deduct from wages cost of procuring conviction.

61. Compensation to seamen.

62. Restriction on sale of and charge upon wages.

Mode of recovering wages.

SECTIONS.

63. Summary proceedings for wages.
64. Restriction on suits for wages.
65. Remedies of masters for wages.

Property of deceased Seamen.

66. Master to take charge of the effects of deceased seamen.
67. Disposal of property of seamen who die during the voyage.
68. Penalty for non-compliance with provisions as to property of deceased seamen.
69. Payment over property of deceased seamen by shipping-master.
70. Disposal of unclaimed property of deceased seamen.

Distressed Seamen.

71. Relief of distressed seamen to whom Merchant Shipping Acts apply.
72. Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

73. Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply.
74. Relief of distressed seamen at ports in the Provinces.
75. Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.
76. Name and other particulars with regard to seamen to be endorsed on agreement of British ship.
77. Master of British ship compelled to convey and give subsistence to such seamen.
78. Conditions under which master may claim payment.
79. Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.
80. Mode of recovering such wages and expenses.
81. Central Government may authorise persons to recover same.
82. Board of Trade may recover such amount from master or owner in certain cases.
83. What shall be evidence of distress and expenses incurred.
84. Power of Central Government to make rules.

Provisions, Health and Accommodation.

85. Complaints as to provisions or water.
86. Allowance for short or bad provisions.

SECTIONS.

87. Medicines to be provided and kept on board certain ships.
88. Weights and measures on board.
89. Expenses of medical attendance in case of illness.
90. Accommodation for seamen.
91. Inspection of provisions, water, medicines and appliances, weights and measures and accommodation.

Facilities for making Complaints.

92. Facilities for making complaints.

Protection of Seamen from Imposition.

93. Assignment or sale of salvage invalid.
94. No debt exceeding three rupees recoverable till end of voyage.
95. Penalty for overcharges by lodging-house-keepers.
96. Penalty for detaining seamen's effects.
97. Penalty for solicitations by lodging-house-keepers.
98. Penalty for being on board ship without permission before seamen leave.

Provisions as to Discipline.

99. Misconduct endangering life or ship.
100. Desertion and absence without leave.
101. Conveyance of deserter or imprisoned seaman on board ship.
102. Power to Court to order offender to be taken on board ship.
103. General offences against discipline.
104. Penalty for false statement as to last ship or name.
105. Entry of offences in official log.
106. Report of desertions and absences without leave.
107. Entries and certificates of desertion abroad.
108. Facilities for proving desertion in proceeding for forfeiture of wages.
109. Application of forfeitures.
110. Decision of questions of forfeiture and deduction in suits for wages.
111. Ascertainment of amount of forfeiture out of wages.
112. Payment of fines imposed under agreement to shipping-master.
113. Penalty for enticing to desert.
114. Penalty for harbouring deserters.
115. Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.
116. Procedure where seaman or apprentice not shipped in the Provinces is imprisoned on complaint of master or owner.
117. Power to send on board seaman or apprentice not shipped in the Provinces who is undergoing imprisonment.
118. On change of master, documents to be handed over to successor.

Leaving Seamen or Apprentices in the Provinces.

SECTIONS.

119. Discharge or leaving behind in the Provinces of seamen or apprentices not shipped in the Provinces.

Official Logs.

120. Official logs to be kept and to be dated.
121. Entries required in official log-book,
122. Offences in respect of official logs.
123. Delivery of official logs to shipping-masters.
124. Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

125. No steam-ship to carry passengers without a certificate of survey.
126. Power for Central Government to exempt certain steam-ships.
127. No port-clearance until certificate of survey produced.
128. Power to detain steam-ship not having certificate of survey.
129. Appointment of surveyors and ports of survey.
130. Powers of surveyor.
131. Fees in respect of surveys.
132. Power for Central Government to direct that two surveyors be employed.
133. Division of duties when two surveyors employed.
134. Declaration of surveyor.
135. Sending of declaration by owner or master to Central Government.
136. Grant of certificate of survey by Central Government.
137. Power for Central Government to order a second survey.
138. Duration of certificates of survey.
139. Cancellation or suspension of certificate of survey by Central Government.
139A. Alterations in steam-ships subsequent to grant of certificate of survey, and additional surveys.
140. Power to require delivery of expired or cancelled certificate of survey.
141. [*Repealed.*]
142. Certificate of survey to be affixed in conspicuous part of steam-ship.
143. Penalty for carrying passengers in contravention of the Act.
143A. Prohibition of carriage of dangerous cargo.

SECTIONS.
144. Steam-ships with foreign certificates of survey or certificates of partial survey.
145. Power for Central Government to make rules as to surveys.
145A. Power of Central Government to make rules as to safety of life.

Provisions in case of wreck of ship carrying steerage passengers.

146. [*Repealed.*]

PART IV.

UNBERTHED PASSENGER SHIPS AND PILGRIM SHIPS.

147. Application of Part IV.
148. Power to exempt ship from provisions of Part IV.
149. Definitions.

General provisions as to Unberthed Passenger and Pilgrim Ships.

150. Places appointed by the Government.
151. Notice to be given of day of sailing.
152. Power to enter on and inspect ship.
153. Ship not to sail without two certificates.
154. Contents of certificate A.
155. Contents of certificate B.
156. [*Repealed.*]
157. Grant of certificates.
158. Substitute for certificate A.
159. Survey of ship.
160. Discretion as to grant of certificate.
161. Copy of certificates to be exhibited.
162. Penalty for ship unlawfully departing or receiving passengers on board.
163. Penalty for opposing entry on, or inspection of, ships.
164. Penalty for not exhibiting copy of certificates.
165. Penalty for fraudulent alteration in ship after certificate obtained.
166. Penalty for failing to supply unberthed passengers or pilgrims with prescribed provisions.
167. Penalty for having excessive number of passengers on board.
168. Penalty for landing unberthed passenger or pilgrim at a place other than that at which he has contracted to land.
169. Penalty for making voyage in contravention of contract.
170. Information to be sent to ports of embarkation and discharge.
171. Report of Consul.
172. Authority to institute proceedings for penalties.
173. Appointment of officers.

Special Provisions relating to Unberthed Passenger Ships.

SECTIONS.

174. Definitions.
175. Power to declare what shall be deemed " seasons of fair weather ", " seasons of foul weather ", and "long voyages " and " short voyages ".
176. Space to be available for passengers.
177. Ship taking additional passengers at intermediate place.
178. Deaths on voyage.
179. Space to be available for passengers.
180. Statements concerning passengers.
181. Deaths on voyage.
182. Ship taking additional passengers at intermediate place.
183. Certain ships to be propelled by steam.
184. Certain ships to carry medical officer.
185 to 188. [*Repealed.*]
189. Penalty for not complying with requirements as to statements concerning passengers and certain other matters.
190. Penalty for bringing passengers from foreign port in excess of authorised number.
191. Power for Central Government to make rules.
192. Power to prescribe space to be available for passengers.

Special Provisions regarding Pilgrim Ships.

193. Space to be provided for pilgrims.
194. Disposal of pilgrims' baggage.
195. Hospital accommodation.
196. Statement concerning pilgrims to be delivered before ship departs.
197. Deaths on voyage.
198. Pilgrim ship taking additional pilgrims at intermediate place.
199. Statement concerning pilgrims to be delivered before pilgrims disembark in the Provinces.
200. Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.
201. Certain pilgrim ships to carry medical officers and attendants.
202. Medical officers' diaries and reports.
203. Pilgrim ships to touch at Aden on the outward voyage.
204. [*Repealed.*]
205. Bond where pilgrim ship proceeds on outward voyage.
206. Medical inspection and permission required before embarkation of pilgrims.
207. Medical inspection after embarkation in certain cases.
208. Medical inspection of women.
208A. Conditions for securing return passages for pilgrims.
208B. Issue of production of tickets.

SECTIONS.
208C. Refund of deposits and passage-money.
209. Unclaimed deposits and passage-money to lapse to Government.
209A. Cost of return journey of pilgrims on ships other than those for which return ticket is available.
209B. Notice of sailing of pilgrim ship.
209C. Compensation for delay in sailing.
209D. Substitution of ships.
210. Sanitary taxes payable by master of pilgrim ship.
211. Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.
212. Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.
213. Power for Central Government to make rules.

PART V.

SAFETY.

213A. Definition.

Prevention of Collisions.

214. Appointment of inspectors of lights and fog-signals.
215. Notice of deficiency to be given to master or owner by such inspectors.
216. Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

Life-saving Appliances.

216A. Power of Central Government to make rules as to life-saving appliances.
216B. Inspection of provision of life-saving appliances.

Load Lines.

217. Operation of provisions relating to load lines.
218. Ships exempt from provisions relating to load lines.
219. Power of Central Government to make rules as to load lines.
220. Marking of deck line and load lines.
221. Submersion of load line.
222. Offences in relation to marks.
223. Inspection of ships with respect to load lines.

Certificates.

224. Issue of load-line certificates and effect thereof.
224A. Duration, renewal and cancellation of certificates.

SECTIONS.

224B. Ships not to proceed to sea without certificate.

224C. Publication of load-line certificate and particulars relating to depth of loading.

224D. Insertion of particulars as to load lines in agreements with crew.

Special provisions as to ships not registered in the Provinces.

224E. Load-line certificates of ships not registered in the Provinces.

224F. Inspection and control of ships not registered in the Provinces.

224G. Certificate of ship not registered in the Provinces to be produced to Customs.

224H. Marking of deck line and load-lines of ships not registered in the Provinces.

224I. Submersion of load-line of ships not registered in the Provinces.

224J. Inspection of ships not registered in the Provinces.

224K. Load-line certificates of ships not registered in the Provinces.

224L. Certificates to be produced to Customs by ships not registered in the Provinces.

Loading of Timber.

224M. Power of Central Government to make rules as to timber cargo.

Grain Cargoes.

225. Stowage of cargo of grain, etc.

226. Penalty for improper stowage of such cargo.

Subdivision Load-Lines.

227. Submersion of subdivision load-lines in case of British passenger steamer registered in the Provinces.

228. Application of section 227 to steamers not registered in the Provinces.

Unseaworthy Ships.

229. Every person sending unseaworthy ship to sea liable to penalty.

230. Unseaworthy ships.

231. Obligation of owner to crew with respect to seaworthiness.

Detention of unsafe ships by the Central Government.

232. Power to detain unsafe ship and procedure for detention.

Costs of Detention and Damages incidental thereto.

SECTIONS.

233. Liability of Central Government for costs and damages when ship wrongly detained.
234. Liability of ship-owner for costs when ship rightly detained.
235. What included in costs of detention and survey.
236. Power to require from complainant security for costs, etc.
237. Costs, etc., payable by Central Government recoverable from complainant.
238. Application to foreign ships of provisions as to detention.
239. Delegation of powers to Port Commissioners, etc.

Installation of Wireless Telegraphy.

240. Commencement.
241. [*Repealed.*]
242. Wireless telegraphy requirements.
242A. Wireless direction-finding apparatus.
242B. Wireless telegraph log.
243. Appointment and powers of wireless telegraphy inspectors.
244. Application to ships, other than British ships registered in the Provinces.
245. Power to make rules.

Signalling Lamps.

245A. Signalling lamps.

Safety Certificates, Radio-telegraphy certificates and Exemption Certificates.

245B. Operation of provisions relating to Safety Certificates and Exemption Certificates.
245C. Safety Certificates and Qualified Safety Certificates.
245D. Safety Radio-telegraphy Certificate.
245E. Exemption Certificate.
245F. Duration of Certificates.
245G. Issue of Certificates to ships of foreign countries.
245H. Prohibition on proceeding to sea without certificates.
245I. Recognition of certificates issued outside the Provinces.
245J. Power of Central Government to make rules as to certificates.
245K. Application of sections 139, 139A, 140 and 142 of Act to certificates.
245L. Issue by Foreign Government of certificate to ships registered in the Provinces.
245M. Detention of foreign ships in cases not referred to in section 238.

PART V-A.

NAVIGATION.

SECTIONS.

245N. Method of giving helm orders.
245O. Duty to report dangers to navigation.
245P. Obligation to render assistance on receiving signal of distress.
245Q. Power of Central Government to make rules as to signals.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

246. Shipping casualties and report thereof.
247. Report of shipping casualties to Central Government and to Provincial Government.
248. Application to Court for a formal investigation.
249. Court empowered to make formal investigation.
250. Power for Court of Investigation to inquire into charges against masters, mates and engineers.
251. Power for Central Government to direct investigation into charges of incompetency or misconduct.
252. Person accused to be heard.
253. Powers of Courts as to evidence and regulation of proceedings.
254. Assessors.
255. Power to arrest witnesses and cause entry and detention of vessels.
256. Power to commit for trial and bind over witnesses.
257. Report by Court to Central Government and to Provincial Government.

Suspension and cancellation of Certificates and grant of fresh Certificates.

258. Saving of power to cancel and suspend certificates and remove master under English Acts.
259. Power to issue local certificates in lieu of cancelled or suspended certificates.
260. Power for Central Government to suspend or cancel certificates in certain cases.
261. [*Repealed.*]
262. Report to Board of Trade.
263. Power to revoke cancellation or suspension and grant new certificates.

SECTIONS.

264. Power of Court of Investigation or Inquiry as to certificates granted by the Central Government.
265. Power to remove master and appoint a new master.
266. Delivery of certificate cancelled or suspended.

Investigations into Explosions.

267. Power to investigate causes of explosions on board steam-ships.

Courts of Survey.

268. Constitution of Court of Survey.
269. Powers and procedure of Court of Survey.
270. Power of Central Government to make rules with respect to Court of Survey.

Scientific Referees.

271. Reference in difficult cases to scientific persons.

PART VII.

WRECK AND SALVAGE.

272. "Wreck" defined.
273. Appointment of receivers.
274. Rules to be observed by persons finding wreck.
275. Government or person finding wreck entitled to salvage.
276. Notice to be given by receiver.
277. Wreck may in certain cases be sold.
278. Proceeds how applied.
279. Savings.

PART VIII.

LEGAL PROCEEDINGS.

280. Certain persons to be deemed Public Servants.
281. Jurisdiction of Magistrates.
282. Place of trial of the offender.
283. Depositions to be received in evidence when witnesses cannot be produced.
284. Enforcing detention of ship.
285. Levy of wages, etc., by distress of moveable property.
286. Levy of wages, fines, etc., by distress of ship.
287. Service of documents.
288. Application of fines.

PART IX.

SUPPLEMENTAL.

SECTIONS.
289. Powers to see Act is complied with.
289A. Power to restrict transfer of ships.
289B. Power to restrict transfer of registry of ships.
289C. Power to exempt ships from provisions of this Act and the Merchant Shipping Acts.

Ship Surveyors.

290. Power to appoint examiners and to make rules as to qualifications of ship surveyors.
291. No person to practise as ship surveyor unless qualified.
292. Penalty for practising as ship surveyor without certificate.
293. Powers of person appointed or authorised to survey ship.
294. Provisions with respect to rules.
294A. Power to appoint committees to advise on rules and scales.
295. Protection to persons acting under Act.
296. [*Repealed.*]

SCHEDULE I.—Tables A and B.
SCHEDULE II.—Rates of fees payable in respect of survey of steamships.
SCHEDULE III.—[*Repealed.*]
SCHEDULE IV.—Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, etc., etc.
SCHEDULE V.—[*Repealed.*]

ACT NO. XXI OF 1923.[1]

[*2nd April, 1923.*]

An Act to consolidate certain enactments relating to Merchant Shipping.

WHEREAS it is expedient to consolidate certain enactments relating to Merchant Shipping ; It is hereby enacted as follows:—

PART I.

INTRODUCTORY.

Short title

1. (*1*) This Act may be called the Indian Merchant Shipping Act, 1923.

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1922, Pt. V, p. 166.

This Act has been applied to Sonthal Parganas by the Sonthal Parganas Laws Regulation, 1941 (Bihar Reg. 2 of 1941).

Section 2. In sub-section (1) after clause (3) insert-
"(3A) 'Indian ship' means a ship registered in India whether before or after the commencement of the Constitution in accordance with the law for the time being in force relating to the registration of ships".

A.O/50

After sub-section (1) insert--
"(1A) for the purposes of this Act, references to British ships shall be deemed to include references to Indian ships and the provisions of the Act shall apply accordingly."

A.O/50

(*2*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint. and commencement.

[4][2. (*1*)] In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "effects" includes clothes and documents;

(*2*) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port in [5][~~the Provinces~~] India and any other port or place;

(*3*) "home-trade ship" means a ship employed in trading between any ports in [5][~~the Provinces~~] India or between any port in [5][~~the Provinces~~] India and any port or place on the continent of India [6][or in Burma] or in the Straits Settlements, or in the Island of Ceylon;

(*4*) "master" includes every person (except a pilot or harbour master) having command or charge of a ship;

(*5*) "Merchant Shipping Acts" means the Merchant Shipping Acts, [7][1894—1932];

(*6*) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants [8][but does not include any persons on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance which neither the master nor the owner could have prevented or forestalled];

[8][(*6A*) "passenger steamer" means a steamship carrying more than twelve passengers;]

(*7*) "prescribed" means prescribed by rules made under this Act;

(*8*) "seaman" means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;

(*9*) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and

(*10*) "wages" includes emoluments.

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[1] This Act was brought into force from 1st May, 1923, *vide* Notification No. 2325, dated the 28th April, 1923, Gen. R. and O., Vol. V, p. 439; Gazette of India, 1923, Pt. I, p. 381.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "Gazette of India".

[4] S. 2 may be deemed to have been re-numbered as sub-section (*1*) of s. 2 by the A. O. 1937 which has added a new sub-section (*2*) to that section.

[5] Subs. by the A. O. 1948 for "British India".

[6] Ins. by the A. O. 1937.

[7] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 2, for "1894—1921".

[8] Ins. by s. 2, *ibid.*

[1][(*2*) As from the commencement[2] of Part III of the Government of India Act, 1935, a British ship registered, whether before or after that date, in Burma or Aden shall not be deemed for the purposes of any enactment relating to British ships registered in [3][India] to be such a ship so registered] [4][and as from the fifteenth day of August, 1947, a British ship registered before that date within the territories which on that date constituted the Dominion of Pakistan, or registered on or after that date in Pakistan, shall not be deemed for purposes of the aforesaid to be a British ship registered in India.]

26 Geo. 5 c. 2.

Application of Act to ships propelled by electricity or mechanical power.

3. The provisions of this Act applying to steamships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the [5][Central Government] may, by notification in the [6][Official Gazette] direct for the purpose of adaptation.

Exemption of public ships.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty [7]* * * * or to ships belonging to the Govt. or any foreign Prince or State [4][~~or any~~ Acceding State or ~~the~~ Ruler thereof] and employed otherwise than for profit in the public service of that foreign Prince or State [4][or that Part B ~~Acceding~~ State, as the case may be].

[8][**4A.** [*Power of the Governor General in Council to delegate his Powers to Local Governments.*] *Rep. by the A. O. 1937.*

PART II.

MASTERS AND SEAMEN.

Application.

5. (*1*) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841, and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

(*2*) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows:—

(*a*) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen,

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[1] Ins. by the A. O. 1937.

[2] *I.e.*, the 1st April, 1937.

[3] Subs. by the A. O. 1948 for "British India".

[4] Ins. by the A. O. 1948.

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "Gazette of India".

[7] The words "or the Govt." rep. by the A. O. 1937.

[8] S. 4A had been ins. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 7.

XI.

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In Act XXI of 1923, after section 4, the following sections shall be inserted, namely,

"4A. Appointment of Director-General of Shipping. The Central Govt. may, by notification in the official Gazette, appoint a Director-General of Shipping.

4B. Delegation of powers to Director-General of Shipping. The Central Govt. may, by xxxxx order direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act or of the Merchant Shipping Acts as may be specified in the direction shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Director-General of Shipping

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payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in [1][~~the Provinces of~~ India].

[[2](*aa*) The provisions relating to the employment of young persons shall apply to ships registered in [1][~~the Provinces of~~ India] and to foreign ships in the manner prescribed in the said provisions.]

(*b*) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in [1][~~the Provinces of~~ India].

(*c*) The provisions relating to the rights of seamen, in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in [1][~~the Provinces of~~ India], while such ships are in [1][~~the Provinces of~~ India].

(*d*) The provisions relating to official logs shall apply to sea-going ships registered in [1][~~the Provinces of~~ India], and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in [1][~~the Provinces of~~ India] and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

57 & 58 Vict. c. 60.

57 & 58 Vict. c. 60.

(*3*) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the Merchant Shipping Act, 1894,[3] and are not local in their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in [1][~~the Provinces of~~ India].

Shipping Offices.

India

Shipping Offices.

6. (*1*) Shipping offices shall be maintained at every port in [1][~~the Provinces~~] where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the [4][Central Government] may deem necessary.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Ins. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 2.
[3] Coll. Stat., Vol. II.
[4] Subs. by the A. O. 1937 for "G. G. in C."

(*2*) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the [1][Central Government] may consider necessary.

(*3*) Shipping-masters and deputy shipping-masters shall be appointed by the [1][Central Government], and shall [2]* be subject to [3][[4][its] control or to the control] of any intermediate authority which [5][it] may appoint.

(*4*) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

Power to direct that business of shipping office be transacted at custom house office or elsewhere.

7. (*1*) The [1][Central Government] may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the [1][Central Government] shall direct, and, thereupon the same shall be conducted accordingly.

(*2*) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

Business of shipping-masters.

8. It shall be the general business of shipping-masters—

(*i*) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;

(*ii*) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;

(*iii*) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the Apprentices Act, 1850, and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships;

XIX of 1850.

(*iv*) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts.

Fees to be paid.

9. (*1*) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the [1][Central Government] shall be payable upon all engagements and discharges effected before shipping-masters.

(*2*) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] The word "respectively" rep. by Act 6 of 1928, s. 6 and Sch.

[3] Subs. by s. 6 and Sch., *ibid.*, for "the control of that Government or".

[4] Subs. by the A. O. 1937 for "his".

[5] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

(*3*) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I:

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(*4*) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Prohibition on taking other remuneration at shipping office.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Certificates of Competency.

Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.

11. (*1*) Every British foreign-going ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in [1][~~the Provinces~~] India shall be provided with officers duly certificated under this Act according to the following scale, namely:—

- (*a*) in any case, with a duly certificated master;
- (*b*) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

India

(*2*) Every British foreign-going steam-ship when going to sea from any place in [1][~~the Provinces~~] shall be provided with engineers duly certificated under this Act according to the following scale, namely:—

- (*a*) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated;

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[1] Subs. by the A. O. 1948 for "British India".

(*b*) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(*3*) Every British home-trade steam-ship when going to sea from any place in [1][~~the Provinces~~] India and every foreign steam-ship carrying passengers, between places in [1][~~the Provinces~~] India shall be provided with engineers duly certificated according to the following scale, namely:—

(*a*) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated;

(*b*) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(*4*) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1917, apply.

I of 1917.

When officer deemed duly certificated.

12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

(*a*) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby; or

(*b*) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act.

57 & 58 Vict., c. 60.

Penalty for serving, etc., as a master, mate or engineer without a certificate.

13. Any person who,—

(*a*) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(*b*) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

Grades of certificates of competency.

14. (*1*) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely:—

Master of foreign-going ship.
First mate of foreign-going ship.
Second mate of foreign-going ship.
Master of a home-trade ship.
Mate of a home-trade ship.

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[1] Subs. by the A. O. 1948 for "British India".

First class engineer.
Second class engineer.
Engine driver.

(*2*) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship ; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Examinations for certificates

15. The [1][Central Government] or a person duly authorised by the [1][Central Government] in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

Grant of certificates on passing examinations.

16. The [1][Central Government] or such authorised person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires:

Provided that the [1][Central Government] may, in any case in which [2][it] has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates of service of Naval Officers.

17. (*1*) A person who has attained the rank of Lieutenant in His Majesty's Navy or in the [3][~~Royal~~ Indian Navy] shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(*2*) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the [3][~~Royal~~ Indian Navy], shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(*3*) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the [1][Central Government] shall deliver a certificate of service to any person who proves himself to be entitled thereto.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] Subs. by the A. O. 1937 for "Royal Indian Marine".

(*4*) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.

Form of certificates.

18. Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the [1][Central Government] and recorded in the prescribed manner.

Record of orders affecting certificates.

19. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the [1][Central Government].

Loss of certificate.

20. Whenever a master, mate, engineer or engine driver proves to the satisfaction of the [1][Central Government] [2]* * * * that he has, without fault on his part, lost or been deprived of a certificate already granted to him [3][under this Act] the [1][Central Government] shall cause a copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

Power to make rules as to grant of certificates of competency.

21. (*1*) The [1][Central Government] [4]* * * * may make rules[5] to regulate the granting of certificates of competency under this Act, and may, by such rules,—

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, or engine drivers ;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, first class engineers, second class engineers, or engine drivers ;

(*c*) fix the fees to be paid by applicants for examination ; and

(*d*) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the [1][Central Government] is to be recorded.

Production of certificates of competency to shipping master.

22. (*1*) The master of a foreign-going ship—

(*a*) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold ; and

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] The words "by or under the authority of which his certificate was granted" rep. by s. 6 and Sch., *ibid.*

[3] Ins. by s. 6 and Sch., *ibid.*

[4] The words "with the previous sanction of the G. G. in C." rep. by s. 4 and Sch., *ibid.*

[5] For such rules, *see* Gen. R. & O., Supplementary Vol. VII, p. 1.

(*b*) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(*2*) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping-master in [1][~~the Provinces~~] India, within twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in [1][~~the Provinces~~] India, within twenty-one days after either the thirtieth of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in [1][~~the Provinces~~] India, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(*3*) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates, and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(*4*) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(*5*) No officer of Customs or other officer shall clear any such ship outwards without such production ; and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

Apprenticeships to the Sea Service.

Application of Act XIX of 1850.

23. (*1*) [2]* * * * Any boy [3][not under fourteen years of age] may be bound as an apprentice in the sea service to the owner of any ship registered in [1][~~the Provinces~~] India to be employed in any such ship, being the property of such person, the master of ~~which is a British subject~~ citizen of India or a Commonwealth citizen, and while so employed to be taught the craft and duty of a seaman, and the provisions of the [4][Apprentices Act, 1850, shall, subject to the provisions of this Act], apply accordingly. XIX of 1850.

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[1] Subs. by the A. O. 1948 for "British India".

[2] The words "Subject to the provisions of the Apprentices Act, 1850," rep. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 3.

[3] Ins. by s. 3, *ibid.*

[4] Subs. by s. 3, *ibid.*, for "said Act shall, save as hereinafter provided in this section".

(*2*) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the Agent of such party for the purposes of the said Act.

(*3*) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

~~Licences to~~ supply of Seamen.

Licences to supply seamen.

24. (*1*) The [1][Central Government] or any person duly authorised by the [1][Central Government] in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in [2][~~the Provinces~~]. India

(*2*) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the [1][Central Government] thinks proper.

Penalties for engaging seamen without licence.

25. (*1*) A person shall not engage or supply a seaman to be entered on board any ship in [2][~~the Provinces~~] India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a shipping-master.

(*2*) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in [2][the Provinces], any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping-master.

(*3*) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(*4*) If a person acts in contravention of this section, he shall for eac seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

Penalty for receiving remuneration

26. (*1*) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1948 for "British India".

(4) If any person receives or accepts to be entered on board any ship any seaman in contravention of the provisions of this section, he shall, for each seaman in respect of whom an offence is committed, be liable to a fine which may extend to one hundred rupees.

(5) (a) The Central Govt. may, by notification in the official Gazette, make rules for the purpose of enabling seamen's Employment Offices effectively to exercise its powers under this Act.

(b) In particular, and without prejudice to the generality of the foragoing power, such rules may provide for--

(i) the consultation with respect to any specified matter by Seamen's Employment Offices with such advisory boards or other authorities as the Central Government may think fit to constitute or specify in this behalf.

(ii) the levy and collection, notwithstanding anything contained in section 26 or in any other provision of this Act, of such fee as may be specified by any Seamen's Employment Office for registering the name of any seaman in any register maintained by it;

(iii) the issue from time to time of direction by the Central Govt. to any Seamen's Employment Office with reference to the exercise of any of its powers; and

(iv) the supersession of any Seamen's Employment Office which fails to comply with any such direction.

__Explanation.__ In this section "seaman" means every person employed or engaged in any capacity on board any ship, but does not include ship's officers' masters, pilots or apprentices duly indentured and registered, unless declared by the Central Govt. by notification in the official Gazette, to be so included."

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Insertion of new section 25A, in Act XXI of 1923. After section 25, the following secti shall be inserted, namely:

"25A. Seamen's Employment Offices for the supply of seamen. (1) The Central Govt. may by notification in the Official Gazette, establish at such ports as it thinks fit Seamen's Employment Offices for the purpose of engaging or supplying seamen for merchant ships and generally for regulating the supply of maritime labour.

(2) The Central Govt. may, by notification in the Official Gazette direct that any port at which no separate Seamen's Employment Office is established under sub-section (1), the functions of the Seamen's Employment Office in that port shall be discharged by such person or body of persons as it may specify in the notification andthereupon the person or body of persons so specified shall be deemed to be the Seamen's Employment Office established at that port within the meaning of this Act.

(3) whe there is in existence at any por a Seamen's Employment Office within the mean ing of sub-section (1) or sub-section (2), then, notwithstanding anything to the contra contained in any other provision of this Ac no person shall receive or accept to be entered on board any ship any seamen unless such seaman has been engaged through or supplied by such Seamen's Employment Office.

seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act.

from seamen for shipping them.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

Engagement of Seamen.

Agreements with crew.

27. (1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew, from any port in [1][the Provinces]. India

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

Form and contents of the agreement.

28. (1) An agreement with the crew shall be in a form sanctioned by the [2][Central Government], and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely:—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend ;

(*b*) the number and description of the crew, specifying how many are engaged as sailors ;

(*c*) the time at which each seaman is to be on board or to begin work ;

(*d*) the capacity in which each seaman is to serve ;

(*e*) the amount of wages which each seaman is to receive ;

(*f*) a scale of the provisions which are to be furnished to each seaman, such scale being in the case of lascars or other native seamen, not less than a scale to be fixed by the [3][Central Government] [4]* * * and published in the [5][Official Gazette][6] ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[4] The words "with the previous sanction of the G. G. in C." rep. by s. 4 and Sch., *ibid.*

[5] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

[6] For a notification issued under this cl., *see* Gen. R. & O., Supplementary Vol. VII, p. 24.

(*g*) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the ¹[Central Government] as regulations proper to be adopted, and which the parties agree to adopt ; and

(*h*) where it is agreed that the services of any lascar or other native seaman shall end at any port not in ²[~~the Provinces~~] India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in ²[~~the Provinces~~] India as may be agreed on, or a passage to some port in ²[~~the Provinces~~] India free of charge or on such other terms as may be agreed upon, and in this provision the word "seaman" shall include also any native of ²[~~the Provinces~~] India carried to sea from any port in ²[~~the Provinces~~] India as one of the crew :

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(*3*) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(*4*) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

Engagement of single seaman where agreement is made out of the Provinces.

29. If the master of a ship registered at a port outside ²[the Provinces] India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in ²[the Provinces], the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Special provisions with regard to agreements with crew of foreign-going ships.

30. (*1*) The following provisions shall have effect with respect to the agreements with the crew made in ²[the Provinces] in the case of foreign-going ships registered either within or without ²[the Provinces], namely:—

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India

(*a*) The agreement shall, subject to the provision of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.

(*b*) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1948 for "British India".

him or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(*c*) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.

(*d*) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute: and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.

(*e*) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.

(*f*) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in [1][~~the Provinces~~] India after such date, or the discharge of cargo consequent upon that arrival.

(*g*) On every return to a port in [1][~~the Provinces~~] India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage ; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

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[1] Subs. by the A. O. 1948 for "British India"

(*h*) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) In the case of a ship— India

(*a*) registered in [1]~~[the Provinces]~~, or

(*b*) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in [1]~~[the Provinces]~~ India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of [1]~~[the Provinces]~~ India to any other such port which is not on the direct road or a customary route to her port of destination in [1]~~[the Provinces]~~: India

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in [1]~~[the Provinces]~~, India and for other purposes on the termination of the agreement at a port out of India [1]~~[the Provinces]~~ under the foregoing proviso, as the [2][Central Government] may direct.

Renewal of running agreements in certain cases.

31. (*1*) When a running agreement has been made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in [1]~~[the Provinces]~~ India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in [1]~~[the Provinces]~~ India at which the crew have agreed to be discharged.

(*2*) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by [3][the Central Government] for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Govt."

Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

32. The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely:—

(*a*) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.

(*b*) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.

(*c*) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act, with respect to the making of the agreement, shall apply accordingly.

(*d*) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in [1][~~the Provinces~~] India after such date, or the discharge of cargo consequent on that arrival:

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the [2][Central Government] with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

Changes in crew of foreign-going ship to be reported.

33. (*1*) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving [1][~~the Provinces~~] India, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the [2][Central Government] of every change which takes place in his crew before finally leaving [1][~~the Provinces~~], India and that statement shall be admissible in evidence.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."

(*Part II.—Masters and Seamen.*)

(*2*) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as to agreement with crew of foreign-going ship.

34. (*1*) In the case of a foreign-going ship on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(*2*) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(*3*) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(*4*) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in [1][~~the Provinces~~] India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(*5*) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as to agreement with crew of home trade ship.

35. (*1*) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in [1][~~the Provinces~~] India, within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in [1][~~the Provinces~~] India, deliver or transmit to a shipping master in [1][the Provinces] India every agreement made within the six months next preceding such days respectively.

(*2*) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

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[1] Subs. by the A. O. 1948 for "British India".

(*3*) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

Copy of agreement to be made accessible to the crew.

36. (*1*) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

(*2*) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

Alteration in agreement with the crew.

37. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in ~~His Majesty's dominions~~ India or in any other Commonwealth country) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made ~~out of His Majesty's dominions~~ elsewhere) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

[1][*Employment of young persons.*

Definitions of "coasting-ship", "young lascar" and "young person".

37A. For the purposes of the following provisions—

(*i*) "coasting-ship" means a ship exclusively employed in trading between any ports or places on the continent of India, [2]* * * * or between ports or places on the continent of India and ports or places in the island of Ceylon [3][or in Burma];

(*ii*) "young lascar" means a lascar or other native seaman under eighteen years of age; and

(*iii*) "young person" means a person under eighteen years of age, and includes a young lascar.

Employment of children.

37B. No young person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship registered in [4][~~the Provinces~~] India and no young lascar under fourteen years of age shall be engaged or carried to sea to work in any capacity in any foreign ship, except—

(*a*) in a school-ship, or training-ship, in accordance with the prescribed conditions; or

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[1] Ss. 37A to 37J with their heading were ins. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 4.

[2] The words "or between Aden and Perim" rep. by the A. O. 1937.

[3] Ins. by the A. O. 1937.

[4] Subs. by the A. O. 1948 for "British India".

(*b*) in a ship in which all persons employed are members of one family ; or

(*c*) in a home-trade ship of a burden not exceeding three hundred tons ; or

(*d*) where such young person is to be employed on nominal wages and will be in the charge of his father or other adult near male relative.

Engagement of young persons as trimmers or stokers.

37C. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), no young person shall be engaged or carried to sea to work as a trimmer or stoker in any ship registered in [1][~~the Provinces~~] India, and no young lascar shall be engaged or carried to sea to work as a trimmer or stoker in any foreign ship.

(*2*) Subsection (*1*) shall not apply—

(*a*) to any work of trimming or stoking done by a young person in a school-ship or training-ship in accordance with the prescribed conditions ; or

(*b*) to any work of trimming or stoking done by a young person in a ship which is mainly propelled otherwise than by steam ; or

(*c*) to the engagement or carrying to sea of a young person over sixteen years of age to work as a trimmer or stoker on a coasting-ship, provided he is employed in accordance with the prescribed conditions.

(*3*) Where in any port a trimmer or stoker is required for any ship mentioned in sub-section (*1*), other than a coasting-ship, and no person over eighteen years of age is available, two young persons over sixteen years of age may be engaged and carried to sea to do the work which would otherwise have been done by one person over eighteen years of age.

(*4*) There shall be included in every agreement with the crew in ships to which this section applies a short summary of the provisions of this section.

Medical examination of young persons.

37D. (*1*) Subject to the provisions of sub-section (*2*), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in [1][~~the Provinces~~] India, and no young lascar shall be engaged or carried to sea to work in any capacity, in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

(*2*) Sub-section (*1*) shall not apply—

(*a*) to the employment of a young person in a ship in which all persons employed are members of one family ; or

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[1] Subs. by the A. O. 1948 for " British India ".

(*b*) where the shipping-master, on the ground of urgency, has authorised a young person to be engaged and carried to sea, without the certificate required by sub-section (*1*) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (*1*).

(*3*) A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

Maintenance of list or register of young persons in a ship.

37E. There shall be included in every agreement with the crew of every ship registered in [1][~~the Provinces~~] India and every foreign ship, which engages young persons in [1][~~the Provinces~~] India, a list of young persons who are members of the crew, together with particulars of the dates of their birth, and, in the case of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

Penalty for contravention of sections 37B, 37C and 37D.

37F. If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for false representation by parent or guardian.

37G. If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees.

Penalty for failure to produce medical certificate for inspection.

37H. If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

Penalty for failure to keep or produce for inspection a register of young persons.

37I. If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

Power to make rules.

37J. (*1*) The [2][Central Government] may make rules prescribing—

(*a*) the conditions of employment of young persons, in any capacity, in school-ships and training-ships, and the authorities by whom and the manner in which the inspection of their work shall be carried out ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C."

(*b*) the conditions of employment of young persons as trimmers or stokers in coasting-ships ;

(*c*) the authorities whose certificates of physical fitness shall be accepted for the purposes of section 37D ; and

(*d*) the form of the register of young persons to be maintained in ships where there is no agreement with the crew.

(*2*) Rules under clause (*b*) shall be made after consultation with such organisations in [1]~~[the Provinces]~~ India as the [2][Central Government] may consider to be most representative of the employers of seamen and of seamen.]

Engagement of Lascars by Masters of Foreign Ships.

Engagements between masters of foreign ships and lascars or native seamen.

India **38.** (*1*) When the master of a foreign ship being at any port in [1]~~[the Provinces]~~ engages any lascar or other native seaman to proceed to any port out of [1]~~[the Provinces]~~ India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(*2*) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(*3*) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in [1][the Provinces] India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the [3][Central Government] of all expenses which may be incurred by [4][the Central Government] in respect of any such lascar or other native seaman who is discharged or left behind at any port out of [1][~~the Provinces~~] India and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(*4*) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

Penalty for master of foreign ship illegally engaging native seamen.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "Secretary of State for India in Council".
[4] Subs. by the A. O. 1937 for "Govt."

Power to prohibit engagement of native seamen.

40. (*1*) The [1][Central Government] or such officer as [2][it] may appoint in this behalf may, by order in writing, prohibit any person from engaging in [3][~~the Provinces~~ India] or in any specified portion of [4][the ~~Provinces~~ India], any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

(*2*) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Power to board British ships and muster seamen.

41. (*1*) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in [5][the Provinces India] contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

(*2*) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (*1*), he shall be liable to a fine which may extend to one hundred rupees.

Discharge of Seamen.

Discharge before shipping-master.

42. (*1*) When a seaman serving in a British foreign-going ship is, on the termination of his engagement, discharged in [5][~~the Provinces~~ India], he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(*2*) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(*3*) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

Certificate of discharge and return

43. (*1*) The master shall sign and give to a seaman discharged from his ship in [5][~~the Provinces~~ India], either on his discharge or on payment of his of certificate to officer on discharge.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] Subs. by the A. O. 1948 for "British India" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "the territories subject to the said Govt."

[4] Subs. by the A. O. 1948 for "British India" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "such territories".

[5] Subs. by the A. O. 1948 for "British India".

wages, a certificate of his discharge in a form sanctioned by the [1][Central Government] specifying the period of his service and the time and place of his discharge.

(*2*) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(*3*) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to a fine which may extend to two hundred rupees.

Certificate as to work of seaman.

[2][**43A.** (*1*) The master of every ship, except home-trade ships of a burden not exceeding three hundred tons, shall sign and give to a seaman discharged from his ship in [3][~~the Provinces~~ India], either on his discharge or on payment of his wages, a certificate in a form sanctioned by the [4][Central Government] stating—

(*a*) the quality of the work of the seaman ; or

(*b*) whether the seaman has fulfilled his obligations under the agreement with the crew.

(*2*) If the master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.]

Payment of Wages.

Master to deliver account of wages.

44. (*1*) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the [1][Central Government] of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(*2*) The said account shall be delivered—

(*a*) where the seaman is not discharged before the shipping-master, to the seaman himself, not less than twenty-four hours before his discharge or payment off ; and

(*b*) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(*3*) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Ins. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 5.

[3] Subs. by the A. O. 1948 for "British India".

[4] Subs. by the A. O. 1937 for "G. G. in C."

Deductions from wages of seamen.

45. (*1*) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

(*2*) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Payment of wages before shipping-master.

46. (*1*) Where a seaman is discharged before a shipping-master in India [1][~~the~~ Provinces], he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in [1][the Provinces] in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(*2*) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

Time of payment of wages.

47. (*1*) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(*2*) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(*3*) Any sum payable under this section may be recovered as wages.

Settlement of wages.

48. (*1*) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the [2][Central Government] of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

(*2*) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(*3*) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

(*4*) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(*5*) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

Decision of questions by shipping-masters.

49. (*1*) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

(*2*) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

Power of shipping-master to require production of ship's papers.

50. (*1*) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

(*2*) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

Rate of exchange for payment of seamen in Indian money.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in [1][Indian ~~the~~ currency ~~of the Provinces of India~~] the amount due to him estimated according to the rate of exchange for the time being fixed [2]* * * for the adjustment of financial transactions between [3][the Government of India and the Government of the United Kingdom].

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[1] Subs. by the A. O. 1948 for "British Indian currency".

[2] The words "by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of His Majesty's Treasury" rep. by the A. O. 1937.

[3] Subs. by the A. O. 1948 for "the Imperial and the Indian Governments".

Advance and allotment of wages.

Advances and allotments.

52. (*1*) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(*2*) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(*3*) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in [1][~~the Provinces~~ India] shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Regulations as to allotment notes.

53. (*1*) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(*2*) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(*3*) Allotment notes shall be in a form sanctioned by the [2][Central Government].

Payment of sums allotted.

54. (*1*) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs:

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unles the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

(*2*) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(*3*) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(*4*) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Rights of Seamen in respect of Wages.

Right to wages and provisions.

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens.

Right to recover wages and salvage not to be forfeited.

56. (*1*) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void.

(*2*) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

Wages not to depend on freight.

57. (*1*) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned ; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(*2*) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on termination of service by wreck or illness.

58. Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of India [1][~~the Provinces~~] under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

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[1] Subs. by the A. O. 1948 for "British India".

Special provision for ship-wrecked lascars.

[1][**58A.** (*1*) Where the service of a lascar or native seaman employed on a ship registered in [2]~~[the Provinces]~~ India or engaged in [2]~~[the Provinces]~~ India for employment on a foreign ship terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, the lascar shall, notwithstanding anything contained in section 58, but subject to the provisions of this section, be entitled to receive—

(*a*) wages at the rate to which he was entitled at the date of the termination of service, until he is sent home or to a port near his home in accordance with section 75, or until he has been sent home or to a proper port of return in accordance with the Merchant Shipping Acts, or has in any other way reached his port of departure from India or a port near his home, as the case may be ; and

(*b*) compensation for the loss of his effects up to one month's wages at the said rate.

(*2*) A lascar shall not be entitled to receive wages under clause (*a*) of sub-section (*1*) in respect of any period during which—

(*a*) he was or could have been suitably employed ; or

(*b*) he negligently failed to apply to the proper authority for relief as a distressed or destitute lascar.]

[3][(*3*) A lascar shall not be entitled under clause (*b*) of sub-section (*1*) to receive compensation for the loss of his effects in any case in which provision is made for the payment of compensation for war damage to such effects under the Compensation to Seamen (War Damage to Effects) Scheme, 1939, made under section 6 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, or that Scheme as subsequently amended, or under the Compensation to Indian Seamen (War Damage to Effects) Scheme, 1942, made by the Central Government.]

Wages not to accrue during refusal to work or imprisonment.

59. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Power to deduct from wages cost of procuring conviction.

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to reimbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 6.

[2] Subs. by the A. O. 1948 for "British India".

[3] Added by the Indian Merchant Shipping (Amendment) Act, 1942 (2 of 1942), s. 2.

Compensation to seamen.

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages, he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Restriction on sale of and charge upon wages.

62. (*1*) As respects wages due or accruing to a seaman or apprentice—

(*a*) they shall not be subject to attachment by order of any Court ;

(*b*) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same ;

(*c*) a power-of-attorney or authority for the receipt thereof shall not be irrevocable ;

(*d*) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

[1][(*2*) The provisions of clauses (*b*) and (*c*) of sub-section (*1*) shall not apply to so much of the wages of a seaman as have been or are hereafter assigned by way of contribution to any fund approved in this behalf by the Central Government, the main purpose of which is the provision of benefits for seamen on retirement ; and the provisions of clauses (*a*) and (*d*) of sub-section (*1*) shall not apply to anything done or to be done for giving effect to such an assignment.]

[2][(*3*)] Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

Mode of recovering Wages.

Summary proceedings for wages.

63. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Restriction on suits for wages.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1939 (6 of 1939), s. 2.

[2] The original sub-section (*2*) was re-numbered (*3*) by s. 2, *ibid*.

(*a*) where the owner of the ship is adjudged bankrupt or declared insolvent ;

(*b*) where the ship is under arrest or is sold by the authority of any Court ; or

(*c*) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of masters for wages.

65. (*1*) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(*2*) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set-off or counter-claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding and may direct payment of any balance found to be due.

Property of Deceased Seamen.

Master to take charge of the effects of deceased seamen.

66. (*1*) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in [1][~~the Provinces~~] India dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(*2*) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(*3*) The master shall enter in the official log-book the following particulars, namely:—

(*a*) a statement of the amount of money and a description of the effects ;

(*b*) in the case of a sale, a description of each article sold and the sum received for each ; and

(*c*) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(*4*) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

Disposal of property of seamen who die during the voyage.

67. (*1*) The master shall, within forty-eight hours after his arrival at his port of destination in [1][~~the Provinces~~] India, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(*2*) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

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[1] Subs. by the A. O. 1948 for "British India".

Penalty for non-compliance with provisions as to property of deceased seamen.

68. (*1*) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

(*2*) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

Payment over property of deceased seamen by shipping-master.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may:—

(*a*) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered ; or

(*b*) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889[1], to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased. VII of 1889.

Disposal of unclaimed property of deceased seamen.

70. (*1*) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(*2*) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping-master, no claim to such property shall be entertained without the sanction of the [2][Central Government].

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[1] *See* now the Indian Succession Act, 1925 (39 of 1925).

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

Distressed Seamen.

Relief of distressed seamen to whom Merchant Shipping Acts apply.

71. (*1*) A certificate of the [1][Central Government] or of such officer as the [1][Central Government] may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

(*2*) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

72. (*1*) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in [2][~~the Provinces~~] India, the [3][Central Government] may, from time to time by notification in the [4][Official Gazette], authorise, either generally or specially, such persons as [5][it] thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

(*2*) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (*7*) of section *57* of the Indian Evidence Act, 1872.

1872.

(*3*) All suits and proceedings under this section shall be instituted and carried on in the name of the [6][Central Government].

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply.

73. Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

Relief of distressed seamen at ports in the Provinces.

74. (*1*) Where any seamen or apprentices—

(*a*) being ~~Indian subjects of His Majesty~~ citizens of India are found at any place in India [2][~~the Provinces~~] and have been ship-wrecked, discharged or left behind whether from any British ship or from any of His or any of the Ships of the Govt.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Subs. by the A. O. 1937 for "he".

[6] Subs. by the A. O. 1937 for "Secretary of State for India in Council".

Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and are in distress in ~~[1][the Provinces]~~; and India

(*b*) not being Indian subjects have been shipwrecked, discharged or left behind at any place in ~~[1][the Provinces]~~ India from any British ship registered in [1][the Provinces] India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(*2*) " Local authority ", in relation to the provisions of this Act as to distressed seamen, means such person as the [2][Central Government] may [3]* * * * appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

75. (*1*) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to, any citizen of India any subject of His Majesty which is in want of men to make up its complement and is bound—

(*a*) in the case of distressed seamen who are ~~Indian subjects of His Majesty~~, citizen of India to their home or to a port in [1][the Provinces] near their home ;

(*b*) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires) ; and

(*c*) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the [4][Central Government], may in each case determine.

(*2*) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

Name and other particulars with regard to seamen to be endorsed on agreement of British ship.

76. The local authority shall endorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

[3] The words " subject to the control of the G. G. in C." rep. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 4 and Sch.

[4] Subs. by the A. O. 1937 for " G. G. in C."

Master of British ship compelled to convey and give subsistence to such seamen.

77. (*1*) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

(*2*) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (*1*), he shall for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

Conditions under which master may claim payment.

78. (*1*) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the [1][Central Government] in respect of the subsistence and passage of such distressed seaman such sum *per diem* as the [2][Central Government] may fix:

Provided that no such payment shall be made except on the production of the following documents (that is to say):—

(*a*) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board; and

(*b*) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(*i*) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship;

(*ii*) the number of men and boys forming the complement of his crew;

(*iii*) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board; and

(*iv*) every variation (if any) of such number.

(*2*) The declaration required by this section shall, in the case of a ship conveying ~~Indian subjects~~ citizens of India of His Majesty to a port in [3][~~the Provinces~~], India be made before a shipping-master or such other officer as the [4][Central Government] may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906[1]. 6 Edw. 7, c. 48.

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[1] Subs. by the A. O. 1937 for "Secretary of State for India in Council".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1948 for "British India".

[4] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance home, [2][or] in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged.

Mode of recovering such wages and expenses.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the [3][Central Government], or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

Central Government may authorise persons to recover same.

81. (*1*) The [4][Central Government] may, by notification in the [5][Official Gazette], authorise, either generally or specially, such persons as [6][it] thinks fit to sue for any such expenses and wages and recover the same.

(*2*) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872. I of 1872.

Board of Trade may recover such amount from master or owner in certain cases.

82. When any such expenses and wages are due to or in respect of a distressed seaman (not being ~~an Indian subject of His Majesty)~~ a citizen of India belonging to a British ship registered in ~~[7][the Provinces]~~ India, they may, instead of being recovered by a person authorised under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the [3][Central Government]. 6 Edw. 7, c. 48.

What shall be evidence of distress and expenses incurred.

83. In all proceedings under this Part, whether in ~~[7][the Provinces]~~ India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

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[1] Coll. of Stat., Vol. II.

[2] Subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I, for "and".

[3] Subs. by the A. O. 1937 for "Secretary of State for India in Council".

[4] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[5] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "local official Gazette".

[6] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 5, and Sch., for "it".

[7] Subs. by the A. O. 1948 for "British India".

Power of Central Government to make rules.

84. The [1][Central Government] may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Provisions, Health and Accommodation.

Complaints as to provisions or water.

85. [2][(*1*) All British ships and all ships upon which seamen have been shipped in [3][the Provinces] shall have on board sufficient provisions and water of good quality and fit for the use of the crew on the scale specified in the agreement with the crew.]

(*2*) If [4][any person making an inspection under section 91] finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(*3*) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(*4*) [5][The person making the inspection] shall enter a statement of the result of the [6][inspection] in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(*5*) [7][If the inspection was made in pursuance of a request by members of the crew and the person making the inspection certifies in the statement of the result of the inspection that there was no reasonable ground for the request, every member of the crew who made the request] shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

86. (*1*) In either of the following cases—

(*i*) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore) ; or

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[1] Subs. by the A. O. 1937 for "G. G. in C".

[2] Subs. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 7, for the original sub-section.

[3] Subs. by the A. O. 1948 for "British India".

[4] Subs. by Act 9 of 1931, s. 7, for "the officer or person making the examination".

[5] Subs. by s. 7, *ibid.*, for "the officer directing or the person making the examination".

[6] Subs. by s. 7, *ibid.*, for "examination".

[7] Subs. by s. 7, *ibid.*, for "if the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants".

(*ii*) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use ;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages:—

(*a*) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman ;

(*b*) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman ;

(*c*) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(*2*) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines to be provided and kept on board certain ships.

87. (*1*) All foreign-going British ships and all home-trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the [1][Central Government] [2]* * * * and published in the [3][Official Gazette][4].

(*2*) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove, that the non-compliance was not caused by his inattention, neglect or wilful default.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] The words "with the approval of the G. G. in C." rep. by Act 6 of 1928, s. 4 and Sch.

[3] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

[4] For a notification issued under this section, *see* Gen. R. & O., supplementary Vol. VII, p 24.

58
, c. 60.

(*3*) This section shall not apply to ships navigating between the United Kingdom and any port in [1]~~[the Provinces]~~ India and to which section 200 of the Merchant Shipping Act, 1894, applies.

Weights and measures on board.

88. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Expenses of medical attendance in case of illness.

89. (*1*) If the master of, or a seaman or apprentice belonging to, a ship registered in [1]~~[the Provinces]~~ India] receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(*2*) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the [2][Central Government].

Accommodation for seamen.

90. [3][(*1*) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have for each seaman or apprentice a space of not less than twelve superficial feet and not less than seventy-two cubic feet.]

(*2*) In every case the place shall be below a well-caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(*3*) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(*4*) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Subs. by the A. O. 1937 for " Secretary of State for India in Council ".

[3] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 3, for the original sub-section.

(*Part II.—Masters and Seamen.*)

(*5*) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees.

Inspection of provisions, water, medicines and appliances, weights and measures and accommodation.

[1][**91.** A shipping-master, deputy shipping-master, or other officer duly appointed in this behalf by the [2][Central Government], at any port—

(*a*) in the case of any ship upon which seaman have been shipped at that port, may at any time, and

(*b*) in the case of any British ship, may at any time, and, if the master or three or more of the crew so request, shall, enter

on board the ship and inspect—

(*i*) the provisions and water,

(*ii*) the medicines and appliances,

(*iii*) the weights and measures,

(*iv*) the accommodation for seamen,

with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.]

Facilities for making Complaints.

Facilities for making complaints.

92. (*1*) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

(*a*) if the ship is then at a place where there is a Magistrate, after such statement, and

(*b*) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(*2*) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

Assignment or sale of salvage invalid.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

No debt exceeding three rupees recoverable till end of voyage.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

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[1] Subs. by the Indian Merchant Shipping (Amendment) Act, 1931 (9 of 1931), s. 8, for the original section.

[2] Subs. by the A. O. 1937 for " G. G. in C ".

(*Part II.—Masters and Seamen.*)

Penalty for overcharges by lodging-house-keepers.

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty for detaining seamen's effects.

96. (*1*) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(*2*) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

Penalty for solicitations by lodging-house-keepers.

97. If within twenty-four hours after the arrival of a ship at a port in [1][the Provinces] a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Penalty for being on board ship without permission before seamen leave.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in ~~His Majesty's service~~ the service of Govt or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline.

Misconduct endangering life or ship.

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

(*a*) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb ;

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[1] Subs. by the A. O. 1948 for "British India".

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

Desertion and absence without leave.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences, he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary manner and to be punished as follows:— V of 1898.

(*i*) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in [1][the ~~Provinces~~] India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to [1][~~the Provinces~~] India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks ;

(*ii*) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

Conveyance of deserter or imprisoned seaman on board ship.

[2]**101.** (*1*) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Sub-sections (*1*) to (*4*) of this section have been substituted for certain purposes by the Discipline of Seamen Ordinance, 1943 (24 of 1943), s. 5.

(*2*) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(*3*) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(*4*) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(*5*) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

Power to Court to order offender to be taken on board ship.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:—

898.

General offences against discipline.

(*i*) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay ;

(*ii*) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay ;

(*iii*) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute ;

(*iv*) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks ;

(*v*) if he cobmines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks ;

(*vi*) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks ;

(*vii*) if he is convicted of any act of smuggling whereby loss or damage is occassioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

Penalty for false statement as to last ship or name.

104. (*1*) If a seaman on or before being engaged willfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(*2*) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to reimbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Entry of offences in official log.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

(*i*) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew ; and

(*Part II.—Masters and Seamen.*)

(*ii*) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit ; and

(*iii*) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid ; and

(*iv*) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of desertions and absences without leave.

106. (*1*) Whenever any seaman or apprentice not shipped in [1][~~the Provinces~~] India deserts or otherwise absents himself in [1][the Provinces] without leave from a British ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping-master or to such other officer as the [2][Central Government] appoints in this behalf, unless in the meantime, the deserter or absentee returns.

(*2*) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Entries and certificates of desertion abroad.

Edw. 7, . 48.

107. (*1*) In every case of desertion from a ship registered in [1][~~the Provinces~~] India whilst such ship is at any place out of [1][~~the Provinces~~] India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906[3], to grant certificates for leaving seamen behind abroad ; and that person shall thereupon make and certify a copy of the entry.

(*2*) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(*3*) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

[3] Coll. Stat., Vol. II.

(*Part II.—Masters and Seamen.*)

Facilities for proving desertion in proceeding for forfeiture of wages.

108. (*1*) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in [1][~~the Provinces~~] India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(*2*) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Application of forfeitures.

109. (*1*) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement shall be paid into the public treasury and carried to the account of [2][the Central Government].

(*2*) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited ; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(*3*) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Decision of questions of forfeiture and deduction in suits for wages.

110. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Ascertainment of amount of forfeiture out of wages.

111. (*1*) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(*2*) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "Govt."

Payment of fines imposed under agreement to shipping master.

112. (*1*) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

(*i*) if the offender is discharged at any port or place in [1][~~the Provinces~~] India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master ; and

(*ii*) if before the final discharge of the crew in [1][~~the Provinces~~] India, any such offender as aforesaid enters into any of His Majesty's ships r any ships elonging to govt or is discharged at any place not in [1][~~the Provinces~~] India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person, and on the return of the ship to [1][~~the Provinces~~] India, the master or owner shall pay over such fine in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(*2*) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(*3*) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

Penalty for enticing to desert.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Penalty for harbouring deserters.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

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[1] Subs. by the A. O. 1948 for "British India".

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

115. (*1*) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

(*2*) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

Procedure where seaman or apprentice not shipped in the Provinces is imprisoned on complaint of master or owner.

116. (*1*) If any seaman or apprentice who is not shipped in [1][~~the Provinces~~] India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(*a*) while such imprisonment lasts, no person shall, without the previous sanction in writing of the [2][Central Government] or of such officer as [3][it] may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(*b*) the [2][Central Government] or such officer as [3][it] may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the [2][Central Government] or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(*i*) the wages due to such seaman or apprentice and his money and effects ; and

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s.3 and Sch., for "it".

(*ii*) such sum as may, in the opinion of the [1][Central Government] or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(*2*) If any person wilfully disobeys the prohibition contained in clause (*a*) of sub-section (*1*), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(*3*) Any master or owner refusing or neglecting to dposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

Power to send on board seaman or apprentice not shipped in the Provinces who is undergoing imprisonment.

India **117.** If any seaman or apprentice who is not shipped in [2][~~the Provinces~~] is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

On change of master, documents to be handed over to successor.

118. (*1*) If during the progress of a voyage the master of any ship registered in [2][~~the Provinces~~] India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and shall in default be liable to a fine which may extend to one thousand rupees.

(*2*) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Leaving Seamen or Apprentices in [2][~~*the Provinces*~~]. India

Discharge or leaving behind in the Provinces of seamen or apprentices not shipped in the Provinces.

India **119.** (*1*) No seaman or apprentice who was not shipped in [2][~~the Provinces~~] shall be discharged at any port in [2][~~the Provinces~~] India without the previous sanction in writing of such officer as the [1][Central Government] appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1948 for "British India".

(*2*) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (*1*), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs.

Official logs to be kept and to be dated.

120. (*1*) An official log shall be kept in every ship registered in [1][~~the Provinces~~] India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the [2][Central Government].

(*2*) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(*3*) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(*4*) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

(*a*) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and

(*b*) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and

(*c*) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(*5*) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

Entries required in official log book.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:—

(*i*) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;

(*ii*) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

(*iii*) every offence for which punishment is inflicted on board and the punishment inflicted ;

(*iv*) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars ;

(*v*) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any) ;

(*vi*) every case of death happening on board and the cause thereof ;

(*vii*) every birth happening on board with the sex of the infant and the names of the parents ;

(*viii*) every marriage taking place on board with the names and ages of the parties ;

(*ix*) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof ;

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(*x*) the wages due to any seaman who enters His Majesty's naval service during the voyage ;

(*xi*) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom ;

(*xii*) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it ;

(*xiii*) every collision with any other ship and the circumstances under which the same occurred ;

[1][(*xiv*) the times of closing and opening the hinged doors, portable plates, side scuttles, gangway cargo and coaling ports and other openings which are required by any rules made under this Act to be kept closed during navigation ;

(*xv*) a record of all drills and inspections required by any rules made under this Act with an explicit record of any defects disclosed ; and, if boat-drill is not practised on board the ship in any week, the reasons why boat-drill was not practised in that week.]

Offences in respect of official logs.

122. (*1*) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 4.

(*2*) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(*3*) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

Delivery of official logs to shipping masters.

123. (*1*) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in [1]~~[the Provinces]~~ India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping master before whom the crew is discharged.

(*2*) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in [1]~~[the Provinces]~~ India the official log-book for the preceding half-year.

(*3*) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

124. (*1*) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in [1]~~[the Provinces]~~ India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

(*2*) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any duly made out to the time of the loss or abandonment.

(*3*) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

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[1] Subs. by the A. O. 1948 for "British India".

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

No steam-ship to carry passengers without a certificate of survey.

125. (*1*) No steam-ship shall carry more than twelve passengers between places in [1][~~the Provinces~~] India or to or from any place in [1][~~the Provinces~~] India from or to any place out of [1][~~the Provinces~~] India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(*2*) Nothing in sub-section (*1*) shall apply to—

(*a*) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of India or of any part of His Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient ; or

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ct., c. 60.

(*b*) any steam-ship having a certificate of survey granted under the Inland Steam Vessels Act, 1917, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed ; or

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(*c*) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

Power for Central Government to exempt certain steam-ships.

126. The [2][Central Government] may, [3]* * * * by notification in the [4][Official Gazette], declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the [2][Central Government] may direct.

No port-clearance until certificate of

127. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] The words "with the previous sanction of the G. G. in C." rep. by Act 6 of 1928, s. 4 and Sch.

[4] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

survey produced.

is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to detain steam-ship not having certificate of survey.

128. If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Appointment of surveyors and ports of survey.

129. The [1][Central Government] may appoint so many persons as [2][it] thinks fit to be surveyors for the purposes of this Part at such ports [3][in India ~~[4][the Provinces]~~] as [2][it] may appoint to be ports of survey.

Powers of surveyor.

130. (*1*) For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(*2*) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Fees in respect of surveys.

131. Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the [1][Central Government] may appoint in this behalf—

(*a*) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates ; and

(*b*) when the survey is to be made in any port or survey other than Calcutta, Madras, [5][or Bombay], such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the [1][Central Government] may, by notification in the [6][Official Gazette], direct.

Power for Central Government to direct that two

132. A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the [1][Central Government], by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port. surveyors be employed.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] Subs. by Act 6 of 1928, s. 6 and Sch., for "within the territories under its administration".

[4] Subs. by the A. O. 1948 for "British India".

[5] Subs. by the A. O. 1937 for "Bombay or Rangoon".

[6] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

Division of duties when two surveyors employed.

133. When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey.

Declaration of surveyor.

134. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

(*a*) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition ;

(*b*) that the equipments [1][(including life-saving appliances and wireless telegraphy installation)] of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver [1][and of the wireless telegraphy operators and watchers], are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship ;

(*c*) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient ;

[2][(*d*) the voyages or class of voyages on which, as regards construction, machinery and equipments, the steam-ship is in the surveyor's judgment fit to ply ;]

(*e*) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins ; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires ; and

(*f*) any other prescribed particulars.

Sending of declaration by owner or master to Central Government.

135. (*1*) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the [3][Central Government] may appoint in this behalf.

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 5.

[2] Subs. by s. 5, *ibid.*, for the original clause.

[3] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

(Part III.—Passenger Ships.)

(*2*) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(*3*) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of certificate of survey by Central Government.

136. (*1*) Upon receipt of a declaration of survey, the [1][Central Government] shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the [1][Central Government] may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(*2*) A certificate granted under this section shall be in the prescribed form ; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with ; and shall set forth—

(*a*) the particulars concerning the steam-ship which clauses (*c*), (*d*) and (*e*) of section 134 require the declaration by the surveyor to contain ; and

(*b*) any other prescribed particulars.

(*3*) When a certificate is ready for delivery under this section, the [1][Central Government] shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(*4*) The [1][Central Government] may delegate to any person—

(*a*) the function, assigned to the [1][Central Government] by sub-section (*1*), of granting a certificate of survey under that sub-section ;

(*b*) the function, assigned to the [1][Central Government] by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (*a*) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

Power for Central Government to order a second survey.

137. (*1*) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the [1][Central

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

Government] may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the [1][Central Government] may require, direct two other surveyors appointed under this Part to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

Duration of certificates of survey.

138. A certificate of survey granted under this Part shall not be in force—

(*a*) after the expiration of one year from the date thereof ; or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient ; or

(*c*) after notice has been given, by the [1][Central Government], to the owner or master of the steam-ship to which the certificate relates that the [1][Central Government] has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Central Government.

139. Any certificate of survey granted under this Part may be cancelled or suspended by the [1][Central Government] if [2][it] has reason to believe—

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made ; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information ; [3]* *

[3]* * * * *

Alterations in steam-ships subsequent to grant of certificate of survey, and additional surveys.

[4][**139A.** (*1*) The owner or master of a steam-ship in respect of which a certificate of survey has been granted under this Part, shall, as soon as possible after any alteration is made in the steam-ship's hull, equipments or machinery which affects the efficiency thereof or the seaworthiness of the steam-ship, give written notice to such person as the [5][Central Government] may direct containing full particulars of the alteration.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] The word "or" and cl. (*c*) rep. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 6.

[4] S. 139A was ins. by s. 7, *ibid.*

[5] Subs. by the A. O. 1937 for "G. G. in C."

(*2*) If the owner or master of a steam-ship, without reasonable cause, neglects to give the notice required by this section, he shall be liable to a fine which may extend to five hundred rupees.

(*3*) If the [1][Central Government] has reasson to believe that since the making of the last declaration of survey in respect of a steam-ship—

(*a*) any such alteration as aforesaid has been made in the hull, equipments or machinery of the steam-ship ; or

(*b*) the hull, equipments or machinery of the steam-ship have sustained any injury or are otherwise insufficient,

the [1][Central Government] may require the steam-ship to be again surveyed to such extent as [2][it] may think fit, and, if such requirement is not complied with, may cancel any certificate of survey issued under this Part in respect of the said steam-ship.]

Power to require delivery of expired or cancelled certificate of survey.

140. (*1*) The [3][Central Government] may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as [4][it] directs.

(*2*) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

141. [*Report of cancellation or suspension of certain certificates.*] *Rep. by the Indian Merchant Shipping* (*Amendment*) *Act, 1928* (*VI of 1928*), *s. 6 and Sch.*

Certificate of survey to be affixed in conspicuous part of steam-ship.

142. (*1*) The owner or master of every steam-ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed], and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(*2*) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

Penalty for carrying passengers in contravention of the Act.

143. If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125, or has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his licence as a pilot suspended or cancelled for any period by the [1][Central Government].

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1937 for "he".

[3] Subs. by the A. O. 1937, for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[4] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

Prohibition of carriage of dangerous cargo.

[2][**143A.** (*1*) No steam-ship for which a certificate of survey is required by this Part shall carry as ballast or as cargo any goods which by reason of their nature, quantity or mode of stowage are either singly or collectively liable to endanger the lives of the passengers or the safety of the ship.

(*2*) The [3][Central Government] may, subject to the condition of previous publication, make rules determining what goods are to be considered dangerous goods and prescribing the precautions which must be taken in the package and stowage thereof.

(*3*) If goods are carried in any steam-ship in contravention of the provisions of this section or of the rules made thereunder, the owner or master shall for each offence be liable to a fine which may extend to three thousand rupees and the steam-ship shall be deemed for the purpose of section 232 to be unsafe by reason of improper loading.]

Steam-ships with foreign certificates of survey or cetrificates of partial survey.

144. (*1*) When a steam-ship requires to be furnished with a certificate of survey under this Part and the [1][Central Government] is satisfied, by the production of a certificate of survey [4]* * * *, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the [1][Central Government] may, if [5][it] thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part:

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

the govt. of India has by notification in the official gazette directed that this sub section shall not apply; or

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, c. 60.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 8.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] The words "attested by a British Consular Officer at the port where the survey was made" rep. by Act 25 of 1933, s. 9.

[5] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

(*Part III.—Passenger Ships.*)

(*2*) When the [1][Central Government] has, by notification in the [2][Official Gazette], declared that [3][it] is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the [1][Central Government] in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the [1][Central Government] by sub-section (*1*) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port [4]* * * *.

(*3*) The procedure prescribed in sub-section (*1*) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the [1][Central Government] under the said sub-section may be exercised by any person appointed by the [1][Central Government] in this behalf.

Power for Central Government to make rules as to surveys.

145. (*1*) The [1][Central Government] may, subject to the condition of previous publication [5]* * * *, make rules[6] to regulate the making of surveys under this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made ;

[7][(*aa*) declare the requirements as to construction, machinery, equipments (including life-saving appliances and wireless telegraphy installation) and marking of sub-division load lines, which are to be fulfilled before a declaration of survey may be granted ;]

(*b*) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed ;

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

[3] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[4] The words "and duly attested by the British Consular Officer at that port" rep. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 9.

[5] The words "and the sanction of the G. G. in C." rep. by Act 6 of 1928, s. 4 and Sch.

[6] For the Indian Merchant Shipping (Construction and Survey of Passenger Steamers) Rules, 1935, *see* Gen. R. & O., Supplementary Vol. IV, p. 597.

[7] Ins. by Act 25 of 1933, s. 10.

(*c*) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively ; and

(*d*) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey [1]* * * *.

Power of Central Government to make rules as to safety of life.

[2][**145A.** (*1*) The [3][Central Government] may, subject to the condition of previous publication, make rules[4] in respect of steam-ships for which a certificate of survey is required by this Part, regulating the provisions to be made for the safety of life at sea.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate—

(*a*) the control of hinged doors, portable plates, side scuttles, gangway cargo and coaling ports and other openings ;

(*b*) the methods to be adopted and the appliances to be carried for the prevention, detection and extinction of fire ;

(*c*) the provision of means of making signals of distress and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

(*d*) the provision of boats, life-boats, life-rafts and buoyant apparatus, their equipment, and the specifications with which they shall comply, and the marking of these so as to show the dimensions thereof and the number of persons that may be carried thereon ;

(*e*) the manning of boats and life-boats and the qualifications and certificates of life-boat men ;

(*f*) the provision to be made for mustering the passengers and crew and for embarking them in the boats and life-boats (including provision as to the lighting of, and as to the means of ingress to, and egress from, different parts of the ship) ;

(*g*) the practising of boat drills ; and

(*h*) the assignment of specific duties to each member of the crew in the event of an emergency.

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[1] The words "within the territories under its administration" rep. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[2] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933) s. 11.

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] For the Indian Merchant Shipping (Control of Water-tight Openings) Rules, 1934, the Indian Merchant Shipping (Fire Appliances) Rules, 1934 and the Indian Merchant Shipping (Life-Saving Appliances) Rules, 1934, *see* Gen. R. and O., Supplementary Vol. IV, pp. 742, 748 and 750, respectively.

(*3*) In making a rule under this section the [1][Central Government] may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.]

Provisions in case of Wreck of Ship carrying Steerage Passengers.

146. [*Application of certain sections of Merchant Shipping Act, 1894, in case of wreck of ship carrying steerage passengers on certain voyages.*] *Rep. by the Repealing and Amending Act, 1937* (*XX of 1937*), *s. 3 and Sch. II.*

PART IV.

[2][UNBERTHED PASSENGER SHIPS] AND PILGRIM SHIPS.

Application of Part.

147. (*1*) This Part applies—

(*a*) to all ~~subjects of His Majesty within [3][any Indian State];~~ citizens of India wherever they may be: and

(*b*) to all ~~Indian subjects of His Majesty without and beyond [4][the Provinces]~~ Commonwealth citizens for the time being in India

(*2*) But the provisions of this Part relating to [2][unberthed passenger ships] do not apply—

[5][(*a*) to any steam-ship not carrying more than sixty unberthed passengers ;

(*b*) to any ship not intended to carry unberthed passengers to or from any port in [4][the provinces] ; or]

(*c*) to any ships to which the provisions of the Inland Steam Vessels Act, 1917, are applicable. I of 1917.

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the [6][Central Government] may [7]* * * * * declare all or any of the provisions of this Part relating to [2][unberthed passenger ships] to apply to sailing-ships, or any class of sailing-ships [8][carrying more than fifteen unberthed passengers], and to steam-ships, or any class of steam-ships, [9][carrying more than thirty such passengers].

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "Native Passenger Ships".

[3] Subs. by the A. O. 1937 for "the dominions of Princes and States in India".

[4] Subs. by the A. O. 1948 for "British India".

[5] Subs. by Act 25 of 1933, s. 13, for the original clauses (*a*) and (*b*).

[6] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[7] The words "with the previous sanction of the G. G. in C." rep. by s. 4 and Sch., *ibid.*

[8] Subs. by Act 25 of 1933, s. 13, for "carrying as passengers more than fifteen natives of Asia or Africa".

[9] Subs. *ibid.* for "carrying as passengers more than thirty such persons".

Power to exempt ship from provisions of Part IV.

148. (*1*) The [1][Central Government] [2]* * * * may, subject to such condition as [3][it] thinks fit, exempt [4]any ship or class of ships from any provision of this Part relating to [5][unberthed passenger ships].

(*2*) In imposing a condition under this section the [1][Central Government] may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Definitions.

149. In this Part, unless there is anything repugnant in the subject or context,—

[6][(*1*) "unberthed passenger" means a passenger of the age of twelve years or upwards for whom no separate accommodation in any cabin, state-room or saloon is reserved ; but it does not include either a passenger in attendance on a person who is not an unberthed passenger or a child under one year of age ; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one unberthed passenger ;]

(*2*) "[7][unberthed passenger ship]" means, save as otherwise provided in this Part, a ship carrying more than thirty [8][unberthed passengers] ;

(*3*) "pilgrim" means a Muhammadan passenger ,[9][irrespective of age], going to, or returning from, the Hedjaz ; [10]* * *

Explanation 1.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act ;

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] The words "with the previous sanction of the G. G. in C." rep. by Act 6 of 1928, s. 4 and Sch.

[3] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[4] For such an exemption, *see* Gen. R. & O., Supplementary Vol. VII, p. 35.

[5] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger ships".

[6] Subs. by s. 14, *ibid.*, for the original clause.

[7] Subs. by s. 12, *ibid.*, for "native passenger ship".

[8] Subs. by s. 12, *ibid.*, for "native passengers".

[9] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1939 (10 of 1939), s. 2.

[10] The words "but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Central Government may, by notification in the Official Gazette, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim" rep. by s. 2, *ibid.* The words "Central Government" and "Official Gazette" had been subs. by the A. O. 1937 for "G. G. in C." and "Gazette of India" respectively.

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part ;

(*4*) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in [1][~~the Provinces~~] India to or from any port in the Red Sea other than Suez:

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.—"A pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved ;

(*5*) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival ;

(*6*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Part applies.

General Provisions as to [2][*Unberthed Passenger*] *and Pilgrim Ships.*

Places appointed by the Government.

150. (*1*) An [3][unberthed passenger ship] shall not, nor shall a pilgrim ship, depart or proceed from, or discharge [4][unberthed passengers] or pilgrims, as the case may be, at any port or place within [1][~~the Provinces~~] India other than a port or place appointed in this behalf by the [5][Central Government] for [6][unberthed passenger ships] or pilgrim ships, as the case may be.

(*2*) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as an [2][unberthed passenger] or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

151. (*1*) The master, owner or agent of an [2][unberthed passenger] or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the [5][Central Government], that the ship is to carry [4][unberthed passengers] or pilgrims and of her destination and of the proposed time of sailing.

(*2*) The notice shall be given—

(*a*) in the case of an [3][unberthed passenger ship] not less than twenty-four hours before that time ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[3] Subs. by s. 12, *ibid.*, for "native passenger ship".

[4] Subs. by s. 12, *ibid.*, for "native passengers".

[5] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[6] Subs. by Act 25 of 1933, s. 12, for "native passenger ships".

(*b*) in the case of a pilgrim ship at the original port of departure if in [1][~~the Provinces~~] India, and in other cases at the first port at which she touches in [1][~~the Provinces~~] India, not less than three days, and at all other ports not less than twenty-four hours before that time.

Power to enter on and inspect ship.

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Ship not to sail without two certificates.

153. (*1*) A ship intended to carry [2][unberthed passengers] or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections.

(*2*) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

154. The first of the certificates (hereinafter called "certificate A") shall state that the ship is sea-worthy and properly equipped, fitted and ventilated, and—

(*a*) in the case of an [3][unberthed passenger ship], the number of passengers which she is capable of carrying ;

(*b*) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

Contents of certificate B.

155. The second of the certificates (hereinafter called "certificate B") shall state—

(*a*) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch ;

(*b*) that she has the proper complement of officers and seamen ;

[4]* * * * * *

[4][(*c*)] that the master holds certificate A ;

[4][(*d*)] in the case of an [3][unberthed passenger ship], if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;

[4][(*e*)] in the case of an [3][unberthed passenger ship], if she is to carry passengers to any port in the Red Sea, that she is [5][propelled principally by machinery] [6]* * * *

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passengers".

[3] Subs. by s. 12, *ibid.*, for "native passenger ship".

[4] Cl. (*c*) was rep. and the original cls. (*d*), (*e*) and (*f*) were relettered (*c*), (*d*) and (*e*), respectively, by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 2.

[5] Subs. by Act 25 of 1933, s. 15, for "propelled principally by steam".

[6] The words "and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner", rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

[1][(*ee*) in the case of a ship which is to carry more than one hundred unberthed passengers, that she has on board a medical officer licensed in the prescribed manner ;]

[2][(*f*) in the case of an [3][unberthed passenger ship], that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for [4][unberthed passenger ships], have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the [5][unberthed passengers] on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale:

Provided that, if the officer appointed in this behalf by the [6][Central Government] is satisfied that an [7][unberthed passenger] has brought on board for his own use food of the quality and in the quantity prescribed, such [7][unberthed passenger] shall not be included among the number of [5][unberthed passengers] for the purpose of the supply of food under this clause ;]

(*g*) in the case of a pilgrim ship, that she is [8][propelled principally by machinery] and that she is of the tonnage and [9][power] (if any) prescribed ;

(*h*) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants ; and

[2][(*i*) in the case of a pilgrim ship, that food and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale ;]

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[1] Ins. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I.

[2] Ins. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 2.

[3] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger ship".

[4] Subs. by s. 12, *ibid.*, for "native passenger ships".

[5] Subs. by s. 12, *ibid.*, for "native passengers".

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] Subs. by Act 25 of 1933, s. 12, for "native passenger".

[8] Subs. by s. 15, *ibid.*, for "propelled principally by steam".

[9] Subs. by s. 15, *ibid.*, for "steam power".

[1][(*j*)] such other particulars, if any, as may be prescribed for [2][unberthed passenger] or pilgrim ships, as the case may be.

156. [*Supply by passengers of their own food.*] *Rep. by the Indian Merchant Shipping (Amendment) Act, 1933 (XI of 1933), s. 3.*

Grant of certificates.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

Substitute for certificate A.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

Survey of ship.

159. (*1*) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(*2*) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by [3]* * * * [4][the Central Government].

Discretion as to grant of certificate.

160. (*1*) The certifying officer shall not grant a certificate [5][if he has reason to believe that the ship has] on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the [6][unberthed passengers] or pilgrims.

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[1] The original cl. (*i*) was relettered (*j*) by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 2.

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[3] The words "the Local" rep. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[4] Subs. by the A. O. 1937 for "Govt."

[5] Subs. by Act 25 of 1933, s. 16, for "unless he is satisfied that the ship has not".

[6] Subs. by s. 12, *ibid.*, for "native passengers

(*2*) Save as aforesaid, and subject to the provisions of sub-section (*3*), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(*3*) In the exercise of that discretion that officer shall be subject to the control of the [1][Central Government], and of any intermediate authority which [2][[3][it] may appoint] in this behalf.

Copy of certificates to be exhibited.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Penalty for ship unlawfully departing or receiving passengers on board.

162. (*1*) If an [4][unberthed passenger] or pilgrim ship departs or proceeds on a voyage from, or discharges [5][unberthed passengers] or pilgrims at, any port or place within [6]~~[the Provinces~~] India in contravention of the provisions of this Part, or if a person is received as an [4][unberthed passenger] or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every [4][unberthed passenger] or pilgrim carried in the ship, or for every [4][unberthed passenger] or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(*2*) The ship, if found within two years in any port or place within India ~~[the Provinces]~~, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part with all costs, has been enforced, under the provisions of this Part.

Penalty for opposing entry on, or inspection of, ships.

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for not exhibiting copy of certificates.

164. If the master or owner of an [4][unberthed passenger] or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by s. 6 and Sch., *ibid.*, for "that Govt. appoints".

[3] Subs. by the A. O. 1937 for "he".

[4] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[5] Subs. by s. 12, *ibid.*, for "native passengers".

[6] Subs. by the A. O. 1948 for "British India".

(*Part IV.—Unberthed Passenger Ships and Pilgrim Ships.*)

Penalty for fraudulent alteration in ship after certificate obtained.

165. If the master of an [1][unberthed passenger] or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her [2][unberthed passengers] or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for failing to supply unberthed passengers or pilgrims with prescribed provisions.

166. If the master of an [1][unberthed passenger] [3]* * ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to [4][any [1][unberthed passenger]] the prescribed allowance of food, fuel and water, [5][or, if the master of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowances of cooked and uncooked food and of water] as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every [1][unberthed passenger] or pilgrim who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

167. (*1*) If an [1][unberthed passenger] or pilgrim ship has on board a number of [2][unberthed passengers] or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to [6][fifty] rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(*2*) Any officer authorised in this behalf by the [7][Central Government] may cause all [2][unberthed passengers] or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

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[1] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[2] Subs. by s. 12, *ibid.*, for "native passengers".

[3] The words "or pilgrim" rep. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 4.

[4] Subs. by s. 4, *ibid.*, for "any passenger or pilgrim".

[5] Ins. by Act 11 of 1933, s. 4.

[6] Subs. by s. 5, *ibid.*, for "twenty".

[7] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

Penalty for landing unberthed passenger or pilgrim at a place other than that at which he has contracted to land.

168. If the master of an [1][unberthed passanger] or pilgrim ship lands any [1][unberthed passanger] or pilgrim at any port or place other than the port or place at which the [1][unberthed passanger] or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for making voyage in contravention of contract.

169. If an [1][unberthed passanger] or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the [2][unberthed passengers] or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Information to be sent to ports of embarkation and discharge.

170. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the [3][Central Government] in this behalf, at any port or place within [4][~~the Provinces~~] India at which an [1][unberthed passenger] or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the [1][unberthed passenger] or pilgrim ship, and the [2][unberthed passengers] or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within [4][~~the Provinces~~] India where the [2][unberthed passengers] or pilgrims or any of them embarked or are to be discharged.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the [3][Central Government] in this behalf, at any port or place in [4][~~the Provinces~~] India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of [2][unberthed passengers] or pilgrims and other matters have been complied with.

Report of Consul.

171. In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any the Govt. of India or

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[1] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[2] Subs. by s. 12, *ibid.*, for "native passengers".

[3] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[4] Subs. by the A. O. 1948 for "British India".

person lawfully exercising consular authority on behalf of His Majesty in any foreign port shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Authority to institute proceedings for penalties.

172. The penalties to which masters and owners of [1][unberthed passenger] and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Appointment of officers.

173. The [2][Central Government] shall appoint such persons as [3][it] thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Special Provisions relating to [4][Unberthed Passenger Ships].

Definitions.

174. (*1*) "Long voyage" means, subject to the provisions of this Part relating to [4][unberthed passenger ships], any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(*2*) "Short voyage" means, subject to the provisions of this Part relating to [4][unberthed passenger ships], any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather", and "long voyages" and "short voyages".

175. The [5][Central Government] may declare, by notification in the [6][Official Gazette], what shall be deemed to be, for the purposes of this Part relating to [4][unberthed passenger ships], "seasons of fair weather" and "seasons of foul weather" and, for sailing-ships and steam-ships, respectively, a "long voyage" and a "short voyage".

Space to be available for passengers.

176. (*1*) For seasons of fair weather, an [7][unberthed passenger ship] performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

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[1] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[4] Subs. by Act 25 of 1933, s. 12, for "native passenger ships".

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "Gazette of India".

[7] Subs. by Act 25 of 1933, s. 12, for "native passenger ship".

(*2*) For seasons of foul weather, an [1][unberthed passenger ship] propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(*3*) For seasons of foul weather an [1][unberthed passenger ship] propelled by [2][machinery], or partly by [2][machinery] and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(*4*) In seasons of foul weather an [1][unberthed passenger ship] shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

177. If an [1][unberthed passenger ship] performing a short voyage takes additional [3][unberthed passengers] on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

(*a*) the number of [3][unberthed passengers] so taken on board, and

(*b*) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the [3][unberthed passengers] on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of [3][unberthed passengers] which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate, [1][but shall obtain from the certifying officer an endorsement on the certificate B showing the number of passengers taken on board, and the number of passengers discharged, at that port or place].

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[1] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger ship".

[2] Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I, for "steam".

[3] Subs. by Act 25 of 1933, s. 12, for "native passengers".

Deaths on voyage.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the [2][Central Government] appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Space to be available for passengers.

179. (*1*) An [3][unberthed passenger ship] propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between—decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(*2*) An [3][unberthed passenger ship] propelled by [4][machinery], or partly by [4][machinery] and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

180. The master of an [3][unberthed passenger ship] departing or proceeding on a long voyage from any port or place in [5][~~the Provinces~~] India shall sign two statements, specifying the number and the respective sexes of all the [6][unberthed passengers], and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any [7][unberthed passenger] who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land [6][unberthed passengers], and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer threat or the certifying officer, if any, appointed there.

the govt. of India;
or

Ship taking additional passengers at intermediate place.

182. (*1*) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage any additional [6][unberthed passengers] are taken on board at a port or place within ¹[~~the Provinces~~ India] appointed under this Part for the embarkation of ²[unberthed passengers], or

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 17.

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] Subs. by Act 25 of 1933, s. 12, for "native passenger ship".

[4] Subs. by s. 18, *ibid.*, for "steam".

[5] Subs. by the A. O. 1948 for "British India".

[6] Subs. by Act 25 of 1933, s. 12, for "native passengers".

[7] Subs. by s. 12, *ibid.*, for "native passenger".

(*b*) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional ²[unberthed passengers] at any place beyond ¹[~~the Provinces~~ India],

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(*2*) All the foregoing provisions of this Part with respect to certificate B and statements concerning ²[unberthed passengers] shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by machinery.

183. (*1*) A ship carrying ²[unberthed passengers] from or to any port in ¹[~~the Provinces~~ India] to or from any port in the Red Sea shall be propelled principally by ³[machinery].

(*2*) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees or to imprisonment which may extend to three months, or to both.

Certain ships to carry medical officer.

184. (*1*) A ship carrying more than one hundred ²[unberthed passengers] ⁴* * * shall have on board a medical officer licensed in the prescribed manner.

(*2*) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

185 to 188. [*Ships carrying passengers to or from port in Red Sea to touch at Aden. Bill of health at Aden. Bond where ship clears for port in Red Sea. Power for Governor General in Council to direct medical inspection of passengers.*] *Rep. by the A. O. 1937.*

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning ²[unberthed passengers], or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional ²[unberthed passengers], as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passengers".

[3] Subs. by s. 19, *ibid.*, for "steam".

[4] The words "from or to any port in British India to or from any port in the Red Sea" rep. by s. 20, *ibid.*

(*Part IV.—Unberthed Passenger Ships and Pilgrim Ships.*)

Penalty for bringing passengers from foreign port in excess of authorised number.

190. If a ship carrying [1][unberthed passengers] from any port or place beyond [2][~~the Provinces~~] India to any port or place in [2][~~the Provinces~~] India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every [3][unberthed passenger] in excess of that number, be each liable to a fine which may extend to twenty rupees.

Power for Central Government to make rules.

191. (*1*) The [4][Central Government] may make rules[5] consistent with this Part to regulate, in the case of any [6][unberthed passenger ship] or class of such ships, all or any of the following matters, namely:—

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water ;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Part to be carried ;

(*d*) the boats, anchors and cables to be provided on board ;

(*e*) the instruments for purposes of navigation to be supplied ;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;

(*i*) the access of between-decks passengers to the upper-deck ;[7]*

[8][(*j*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf ;

(*k*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board ; and]

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[1] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passengers".

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by Act 25 of 1933, s. 12, for "native passenger".

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] For such rules, *see* Gen. R. & O., Supplementary Vol. IV, p. 790 ; and *ibid.*, Supplementary Vol. VII, p. 32 ; *see* also footnote 4 to s. 145A, *supra*.

[6] Subs. by Act 25 of 1933, s. 12, for "native passenger ship".

[7] The word "and" rep. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[8] Cls. (*j*) and (*k*) were ins. s. 6 and Sch., *ibid*.

[1][(*l*)] generally, to carry out the purposes of this Part.

[2]* * * * *

[3][(*2*)] In making a rule under this section, the [4][Central Government] may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[3][(*3*)] The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Power to prescribe space to be available for passengers.

192. The [5][Central Government] may by order prescribe, in the case of any [6][unberthed passenger ship] or class of such ships and for all or any voyages, the number of superficial or of cubic feet of space to be available for [7][unberthed passengers]; and the order shall be alternative to, or override, as the [5][Central Government] may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

Special Provisions regarding Pilgrim Ships.

Space to be provided for pilgrims.

193. (*1*) The [5][Central Government] may by order determine the number of superficial and cubic feet of space (not being less than [8][eighteen and one hundred and eight respectively]) to be [9][allotted and marked separately] in the between-decks for [10][each pilgrim] of each class, respectively, on board pilgrim ships.

(*2*) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim [11]* * * on board.

(*3*) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit:

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[1] The original cl. (*j*) was re-lettered (*l*) by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[2] The original sub-section (*2*) rep. by s. 6 and Sch., *ibid.*

[3] The original sub-sections (*3*) and (*4*) were re-numbered (*2*) and (*3*) respectively by s. 6 and Sch., *ibid.*

[4] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 6 and Sch., for "authority making it".

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 12, for "native passenger ship".

[7] Subs. by s. 12, *ibid.*, for "native passengers".

[8] Subs. by the Indian Merchant Shipping (Amendment) Act, 1941 (22 of 1941), s. 2, with effect from the 1st April, 1947, for "sixteen and ninety-six respectively", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 6, for "the space for the time being required for passengers under this Act".

[9] Subs. by Act 22 of 1941, s. 2, for "available" with effect from the 1st April, 1947.

[10] Subs. by s. 2, *ibid.*, for "pilgrims" with effect from the 1st April, 1947.

[11] The words "of the age of twelve years or upwards" rep. by the Indian Merchant Shipping (Second Amendment) Act, 1939 (10 of 1939), s. 3.

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim [1]* * * of that class on board.

Disposal of pilgrims' baggage.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Hospital accommodation.

195. There shall be a regularly appointed hospital on board every pilgrim ship, offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed.

Statement concerning pilgrims to be delivered before ship departs.

196. The master of every pilgrim ship departing or proceeding from any port or place in [2][~~the Provinces~~] India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Deaths on voyage.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of ~~His Majesty~~ Govt. at the port or place or to the Chief Customs-officer threat or the certifying officer (if any) appointed there.

Pilgrim ship taking additional pilgrims at intermediate place.

198. (*1*) In either of the following cases, namely:—

(*a*) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within [2][~~the Provinces~~] India appointed under this Act for the embarkation of pilgrims, or

(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond [2][~~the Provinces~~], India

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(*2*) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

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[1] The words "of the age of twelve years or upwards" rep. by the Indian Merchant Shipping (Second Amendment) Act 1939 (10 of 1939), s. 3.

[2] Subs. by the A. O. 1948 for "British India".

Statement concerning pilgrims to be delivered before pilgrims disembark in the Provinces.

199. The master of every pilgrim ship arriving at any port or place in [1][~~the Provinces~~] India at which it may be intended to discharge pilgrims, shall, before any pilgrims disembark, deliver a statement signed by him specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed to the certifying officer appointed thereat.

Pilgrim ships to be propelled principally by machinery and to be of certain tonnage and power.

200. (*1*) Every pilgrim ship shall be [2][propelled principally by machinery], and shall be of the tonnage and [3][power] (if any) prescribed.

(*2*) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain pilgrim ships to carry medical officers and attendants.

201. (*1*) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed, [4][and such medical officers and attendants shall give their services free to all sick pilgrims on board].

(*2*) [5][If medical officers and attendants are not carried on a pilgrim ship in accordance with the provisions of sub.section (*1*)], the master shall be liable to a fine which may extend to [6][three thousand] rupees, or to imprisonment which may extend to three months, or to both.

[7][(*3*) Any medical officer or attendant on a pligrim ship who charges any pilgrim on such ship for his services shall be liable to a fine which may extend to two hundred rupees.]

Medical officers' diaries and reports.

202. The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns as may be prescribed.

Pilgrim ships to touch at Aden on the outward voyage.

203. (*1*) [8][Any officer empowered by ~~the~~ [9][Central Government] in this behalf may, by order in writing, require any pilgrim ship proceeding from any port in [1][~~the Provinces~~] India [10]* * * * to any port in the Red

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 21, for "propelled principally by steam".

[3] Subs. by s. 21, *ibid.*, for "steam-power".

[4] Ins. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 7.

[5] Subs. by s. 7, *ibid.*, for "If this section is not complied with".

[6] Subs. by s. 7, *ibid.*, for "five hundred".

[7] Ins. by s. 7, *ibid.*

[8] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925), s. 2, for "Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave".

[9] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[10] The words "other than Aden" rep. by the A. O. 1937.

Sea, to touch at Aden and not to leave] that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

(*2*) If the master of any such ship, [1][in respect of which an order has been made under this section] without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained the certificate required [2][under this section], he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

204. [*When authority at Aden may refuse to let ship leave.*] *Rep. by the A. O. 1937.*

Bond where pilgrim ship proceeds on outward voyage.

[3][**205.** (*1*) Port-clerance shall not be granted from any port in [4][~~the Provinces~~] India to any pilgrim ship unless the master, owner or agent and two sureties resident in [4][the ~~Provinces~~] India have executed, in favour of the [5][Central Government], a joint and several bond for the sum of ten thousand rupees covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

(*a*) [6]* * * * the ship shall, if so required by an order under section 203, touch at Aden on the outward voyage and there obtain the certificate required under that section,

(*b*) the master and medical officer or officers, if any, shall comply with the provisions of this Part and the rules made thereunder, and

(*c*) the master, owner or agent (as the case may be) shall pay any sum claimed by the [7][Central Government] under section 209A.

(*2*) A bond may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such cases the amount of the bond shall be ten thousand rupees for each ship covered.]

Medical inspection and permission required before embarkation of pilgrims.

206. (*1*) No pilgrim shall be received on board any pilgrim ship at any port or place in [4]~~[the Provinces]~~ India unless and until he has been medically inspected, at such time and place, and in such manner, as the [8][Central Government] may fix in this behalf nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925), s. 2.

[2] Subs. by s. 2, *ibid.*, for "by this section".

[3] Subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 8, for the original section.

[4] Subs. by the A. O. 1948 for "British India".

[5] Subs. by the A. O. 1937 for "Secretary of State for India in Council".

[6] The words "where any voyage does not begin at Aden" rep. by the A. O. 1937.

[7] Subs. by the A. O. 1937 for "G. G. in C."

[8] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

(Part IV.—Unberthed Passenger Ships and Pilgrim Ships.)

[1][(*1a*) No pilgrim shall be received on board any pilgrim ship unless he produces medical certificates signed by persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates, showing that such pilgrim—

(*a*) has been inoculated against cholera within six months before the inspection, and XL 11/48

(*b*) has been vaccinated against smallpox within ~~five~~ three years before the inspection:

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had smallpox.]

(*2*) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(*3*) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the [2][Central Government] for the purpose, in such manner as may be prescribed.

(*4*) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

Medical inspection after embarkation in certain cases.

207. (*1*) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the [2][Central Government] may direct.

(*2*) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 9.

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

(*3*) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board, or to imprisonment which may extend to three months, or to both.

Medical inspection of women.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Conditions for securing return passages for pilgrims.

[1][**208A.** No pligrim shall be received on board any pilgrim ship at any port or place in [2][~~the Provinces~~] India for conveyance in the lowest class available on the ship, unless he—

(*a*) is in possession of a return ticket, or

(*b*) has deposited with the prescribed person such sum for the purpose of defraying the cost of a return ticket as the [3][Central Government] may specify by notification in the [4][Official Gazette]:

[5][Provided that the prescribed person may exempt any pilgrim from any or all of the above requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them.]]

Issue or production of tickets.

[6][**208B.** (*1*) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage-money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner:

Provided that no pilgrim, who has not been exempted under the proviso to section 208A, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(*2*) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quality prescribed, free of further charge, throughout the voyage.

Refund of deposits and passage-money.

208C. (*1*) Every pilgrim prevented from embarking under section 206, or removed from the ship under section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made under section 208A.

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925), s. 5.

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for G. G. in C."

[4] Subs. by the A. O. 1937 for "Gazette of India".

[5] Subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 10, for the original proviso.

[6] Ss. 208B, 208C and 209 were subs. by s. 11, *ibid.*, for the original s. 209.

(*2*) Any pilgrim who, within eighteen months of his sailing from ¹[~~the~~ India ~~Provinces~~], satisfies ~~His Majesty's~~ the Representative of the Govt. of India at Jeddah that he intends to remain in the Hedjaz or to return to India by a route other than the route by which he came from India, shall be entitled to a refund of any deposit made by him under section 208A, or, if he is in possession of a return ticket, to a refund of half the passage money paid by him.

(*3*) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in the prescribed manner, or, if no person has been so nominated, his legal representative, shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim.

(*4*) Where any pilgrim fails to return to ¹[the Provinces] from the Hedjaz within eighteen months of his sailing from India, or returns to India by a route other than the route by which he came from India, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of half the passage-money paid by such pilgrim, except where such deposit or passage-money has already been refunded under this section.

(*5*) Refunds under sub-sections (*1*), (*2*), (*3*) and (*4*) of deposits shall be subject to such conditions and of passage-money to such deductions and conditions as may be prescribed.

Unclaimed deposits and passage-money to lapse to Government.

209. (*1*) All deposits made under section 208A which have been unclaimed for the prescribed period shall ²[vest in ~~His Majesty for the purposes of~~ the Central Government].

(*2*) If any pilgrim entitled to a refund of passage-money under sub-section (*1*) of section 208C does not claim such refund within the prescribed period, or if any pilgrim who has purchased a return ticket does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under sub-section (*2*) or sub-section (*3*) or sub-section (*4*) of section 208C, such passage-money or value shall, subject to the exercise of the rights conferred by sub-section (*4*) of section 208C, ²[vest in ~~His Majesty for the purposes of~~ the Central Government] and ³[shall be paid to the Central Government] by the master, owner or agent to whom it was paid.]

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "become the property of Govt."

[3] Subs. by the A. O. 1937 for "shall be paid to Govt."

Cost of return journey of pilgrims on ships other than those for which return ticket is available.

[1][**209A.** (*1*) [2][Where any pilgrim who has been carried to the Hedjaz by a pilgrim ship] with a return ticket isssued in [3][~~the Provinces~~ India] within the previous eighteen months is owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to [4]* * [5][~~His Majesty's~~ the Representative] of the Govt. of India at Jeddah, notifying his desire to embark for the return passage, the [6][master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz] shall pay to the [7][Central Government] in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the [7][Central Government] claims as the cost of repatriating the pilgrim, together with a sum of one rupee for each day [8][in respect of a deck pilgrim and a sum of three rupees for each day in respect of a cabin class pilgrim] after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah:

Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent:

[9][Provided, further, that, in the case of any pilgrim whose ticket has been deposited with ~~His Majesty's~~ the Representative of the Govt. of India at Jeddah the said period of twenty-five days shall, during the period of six weeks following the Haj day, be reduced to fifteen days beginning on the day on which such pilgrim notifies to ~~His Majesty's~~ the Representative of the Govt. of India at Jeddah his desire to embark for the return passage.]

(*2*) A certificate of such detention purporting to be made and signed by [4]* [5][~~His Majesty's~~ the Representative] of the Govt. of India at Jeddah shall be received in evidence in any Court in [3][~~the Provinces~~ India] without proof of the signature or of the official character of the person who has signed the same.]

Notice of sailing of pilgrim ships.

[10][**209B.** (*1*) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in

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[1] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925), s. 7.

[2] Subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 12, for the original words.

[3] Subs. by the A. O. 1948 for " British India ".

[4] The word " the " rep. by the Repealing and Amending Act, 1935 (12 of 1935), s. 3 and Sch. II.

[5] Subs. by Act 11 of 1933, s. 12, for " British Consul ".

[6] Subs. by s. 12, *ibid.*, for " master, owner or agent aforesaid ".

[7] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

[8] Ins. by the Indian Merchant Shipping (Amendment) Act, 1944 (9 of 1944), s. 2, with effect from 15th September, 1946.

[9] Ins. by Act 11 of 1933, s. 12.

[10] Ins. by the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927), s. 2.

[1][the provinces] shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage, and at each port or place in [1][~~the Provinces~~ India] at which it is to touch for the purpose of embarking pilgrims, full particulars as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to sail from that port or place, the ports, if any, at which it is to touch, the place of its destination, and the probable date of its arrival thereat.

(*2*) The master, owner or agent shall supply to the Pilgrim Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (*1*) as that officer may in writing demand from him.

(*3*) [2][Before such reasonable and sufficient interval] as may be prescribed before the date of the sailing of any such ship from any port or place in [1][the Provinces], the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

(*a*) the place of destination of the ship,

(*b*) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (*1*), and

(*c*) the price of each class of passage tickets, which shall not be in excess of the price communicated to the Pilgrim Officer under sub-section (*1*).

(*4*) Any master, owner or agent, who—

(*a*) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by or under this section required to supply or supplies false particulars or information, or

(*b*) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (*1*) and in accordance with the provisions of that sub-section, or

(*c*) advertises a date of sailing from any port or place other than the date communicated to the Pilgrim Officer at that port or place under sub-section (*1*), or advertises a price for passage tickets at that port or place in excess of the price so communicated, or

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 13, for " within such time ".

(*d*) offers to convey pilgrims by any ship from any port or place in [1][the ~~Provinces~~ India] or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub-section (*3*) of the matters specified in that sub-section, or

(*e*) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub-section (*1*),

shall be punishable with fine which may extend to two thousand rupees.]

Compensation for delay in sailing.

[2][**209C.** (*1*) If the pilgrim ship fails to proceed from any port or place on the date advertised under sub-section (*3*) of section 209B as the date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date:

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent:

Provided, further, that, where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(*2*) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised date of sailing.

(*3*) Any sum payable as compensation under sub-section (*1*) shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention:

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[1] Subs. by the A. O. 1948 for " British India ".

[2] Sub-sections (*1*) to (*5*) of s. 209C were ins. by the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927), s. 2.

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided:

Provided, further, that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the [1][Central Government] may, by general or special order, designate in this behalf.

(*4*) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (*3*) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and Pilgrim Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (*3*), or refer the objection for decision to a Presidency Magistrate or a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed; the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(*5*) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub-section (*3*) of section 209B as the date of sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port-clearance to ships thereat, and such officer shall refuse port-clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.]

[2][(*6*) Nothing in this section or in section 209B shall apply to any advertisement made before the interval prescribed under sub-section (*3*) of section 209B, and intended to give the public information of the

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Sub-section (*6*) was ins. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 14.

approximate date of the sailing of a pilgrim ship, provided that such advertisement clearly states that the date so advertised is approximate only and that the correct proposed date will be advertised later.]

Substitution of ships.

[1][**209D.** Notwithstanding anything contained in section 209B or section 209C, where any ship which has been advertised under sub-section (*3*) of section 209B for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of sailing, the owner or agent may, with the permission in writing of the Pilgrim Officer, substitute for it any other ship which is of the same class and is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.]

Sanitary taxes payable by master of pilgrim ship.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

212. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Power for Central Government to make rules.

213. (*1*) The [2][Central Government] may make rules[3] to regulate all or any of the following matters, namely:—

(*a*) the boats, anchors and cables to be provided on board pilgrim ships ;

(*b*) the instruments for purposes of navigation to be supplied ;

(*c*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927), s. 2.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] For the Indian Pilgrim Ships Rules, 1933, *see* Gen. R. & O., Supplementary Vol. IV, p. 794.

(*d*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

(*e*) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;

(*f*) the scale on which, and the manner in which [1][cooked and uncooked food and water] are to be supplied to pilgrims, and the quality of such [1][food and water] ;

[2][(*ff*) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the rules made under clause (*f*), and the charges which may be made for the same ;]

(*g*) the quality, quantity and storage of the cargo to be carried ;

(*h*) the allotment of the upper-deck space between the various classes of pilgrims ;

(*i*) the amount and distribution of the baggage of pilgrims ;

(*j*) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board [2][free of charge to pilgrims] for maintaining health, cleanliness and decency ;

(*k*) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein ;

(*l*) the tonnage and [3][power] to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply ;

(*m*) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;

[4]* * * * *

(*n*) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;

(*o*) the manner in which, and the persons by whom, the medical inspection of women shall be carried out ;

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[1] Subs. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 15, for "food, fuel and water".

[2] Ins. by s. 15, *ibid.*

[3] Subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 22, for "steam power".

[4] Cl. (*mm*), ins. by Act 11 of 1933, s. 15, was rep. by the Repealing and Amending Act, 1934 (24 of 1934), s. 3 and Sch. II.

[1][(*p*) the manner in which deposits shall be made for the purposes of section 208A, and any matter in respect of which provision is, in the opinion of the [2][Central Government], necessary or expedient for the purpose of giving effect to the provisions of that section ;]

[3][(*q*) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;

[3][(*r*)] [4][the refund of deposits and passage-money under section 208C, and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund ;]

[5][(*s*) the period after which unclaimed passage-money and deposits liable to be refunded shall lapse to [6][the Crown], and the purposes to which sums so lapsing shall be applied ;]

[7][(*t*) the manner in which the proposed date of sailing shall be advertised under section 209B ; the appointment of Pilgrim Officers for the purposes of that section and sections 209C and 209D ; the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer ; and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section ;]

[3][(*u*) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; [8]*

[9][(*v*) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf ;

(*w*) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board ;]

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[1] This cl., originally ins as clause (*oo*) by the Indian Merchant Shipping (Second Amendment) Act, 1925 (11 of 1925), s. 8, was re-lettered (*p*) by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] The original cls. (*p*), (*q*), (*r*) and (*s*) were re-lettered (*q*), (*r*), (*u*) and (*x*) respectively by Act 6 of 1928, s. 6 and Sch.

[4] Subs. by the Indian Merchant Shipping (Amendment) Act. 1933 (11 of 1933), s. 15, for the original clause (*q*), re-lettered (*r*).

[5] This clause, originally ins. as clause (*qq*) by Act 11 of 1925, s. 8, was re-lettered (*s*) by Act 6 of 1928, s. 6 and Sch.

[6] Subs. by the A. O. 1937 for "Govt."

[7] This clause, originally ins. as clause (*qqq*) by the Indian Merchant Shipping (Amendment) Act, 1927 (14 of 1927), s. 3, re-lettered (*t*) by Act 6 of 1928, s. 6 and Sch.

[8] The word "and" rep. by Act 6 of 1928, s. 6 and Sch.

[9] Ins. by s. 6 and Sch., *ibid.*

[1][(*ww*) providing that a pilgrim shall not be received on board any pilgrim ship, unless he is in possession of a passport or a pilgrim's pass regulating the issue of pilgrim's passes, and prescribing the form of and fees which may be charged for such passes ; and]

[2][(*x*)] generally, to carry out the provisions of this Part relating to pilgrim ships.

[3]* * * * *

[4][(*2*)] In making a rule under this section, the [5][Central Government] may direct that a breach of it shall be punishable with fine which may extend to [6][three hundred] rupees, and, when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

[4][(*3*)] The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V.

SAFETY.

Definition.

[7][**213A.** In this Part the expressions " Country to which the International Convention respecting Load-Lines, 1930, applies " and " Country to which the International Convention for the Safety of Life at Sea, 1929, applies " mean—

(*i*) a country which has been declared by Order in Council made by His Majesty under section 65 or section 37 of the Merchant Shipping (Safety and Load-Line Conventions) Act, 1932, to have ratified or acceded to the Convention specified in the expression and has not been so declared to have denounced the Convention ;

22 Geo. 5, c. 9.

(*ii*) any colony or overseas territory of, or any protectorate or territory under suzerainty or mandate of, a country so declared, in respect of which a declaration under the said section of the said Act has been made that the Convention, specified in the expression has been applied to such colony, territory or protectorate, and no declaration has been made that the said Convention has ceased to apply.]

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1933 (11 of 1933), s. 15.

[2] The original cl. (*s*) was re-lettered (*x*) by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[3] The original sub-section (*2*) was rep. by s. 6 and Sch., *ibid.*

[4] The original sub-sections (*3*) and (*4*) were re-numbered (*2*) and (*3*) respectively by s. 6 and Sch., *ibid.*

[5] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by s. 6 and Sch., *ibid.*, for " authority making it ".

[6] Subs. by Act 11 of 1933, s. 15, for " two hundred ".

[7] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 23.

Prevention of Collisions.

Appointment of inspectors of lights and fog-signals.

214. (*1*) The [1][Central Government] may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

(*2*) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

(*a*) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may, require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;

(*c*) he may require and enforce, the production of all books, papers, or documents which he considers important ; and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Notice of deficiency to be given to master or owner by such inspectors.

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Ship not to be cleared by Customs-collector till inspector certifies it

216. Every notice so given shall be communicated in such manner as the [1][Central Government] may direct to the Customs-collector at any port from which such ship may seek to clear ; and no Customs-collector to whom such communication is made shall grant such ship a is properly provided with lights, etc.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

[1][*Life-saving Appliances.*

Power of Central Government to make rules as to life-saving appliances.

216A. (*1*) The [2][Central Government] may, subject to the condition of previous publication, make rules prescribing the life-saving appliances to be carried by every British ship going to sea from any port in [3][~~the Provinces~~]. India

XXV

1933.

(*2*) In making a rule under this section, the [2][Central Government] may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty-rupees for every day after the first during which the breach continues.

Inspection of provision of life-saving appliances.

216B. (*1*) A surveyor appointed under section 129 of this Act may, at any reasonable time, inspect any ship for the purpose of seeing that she is properly provided with life-saving appliances in conformity with the rules made under this Act.

(*2*) If the said surveyor finds that the ship is not so provided he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(*3*) Every notice so given shall be communicated in the manner directed by the [2][Central Government] to the Chief Officer of Customs of any port at which the ship may seek to obtain a clearance and the ship shall be detained until a certificate signed by such surveyor is produced to the effect that the ship is properly provided with life-saving appliances in conformity with the said rules.

(*4*) Such fees may be charged for the grant of the certificate referred to in sub-section (*3*) as the [2][Central Government] may prescribe.]

[4][*Load-Lines.*

Operation of provisions relating to load-lines.

217. (*1*) Sections 218 to 224M inclusive (hereinafter referred to as "the provisions of this Part relating to load-lines") shall have effect only from such date as the [2][Central Government] may, by notification in the [5][Official Gazette], appoint in this behalf.

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[1] Ss. 216A and 216B and the heading were ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 24.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1948 for "British India".

[4] Ss. 217 to 224M and their headings were subs. by Act 25 of 1933, s. 25, for the original heading and ss. 217 to 224.

[5] Subs. by the A. O. 1937 for "Gazette of India".

(*2*) Notwithstanding the provisions of sub-section (*1*) the power to make rules conferred by section 219 and by sub-section (*1*) of section 224M may be exercised, and a load-line certificate may be issued in accordance with the rules made under section 219, at any time before such appointed date as if the provisions of this Part relating to load-lines were already in force ; and where a load-line certificate is so issued in respect of any ship, or where before such appointed date a certificate granted under section 223 of this Act as in force prior to its amendment by the Indian Merchant Shipping (Second Amendment) Act, 1933, ceases to be in force in respect of any ship, the provisions of this Part relating to load-lines shall be deemed to have come into force with respect to such ship as from the date on which the said load-line certificate is issued or the said certificate granted under section 223 ceases to be in force, as the case may be.

Ships exempt from provisions relating to load-lines.

218. (*1*) The provisions of this Part relating to load-lines shall not apply to—

(*i*) any sailing ship of less than 150 tons gross tonnage employed in plying coastwise between ports situated [1][within India, [2][Pakistan], Burma and Ceylon] ;

(*ii*) any ship solely engaged in fishing ;

(*iii*) any pleasure yacht.

(*2*) The [3][Central Government] may, on such conditions as [4][it] may think fit, exempt from the provisions of this Part relating to load-lines—

(*i*) any ship plying between the near neighbouring ports of two or more countries if the [3][Central Government] and the Governments of those countries are satisfied that the sheltered nature and conditions of the voyages between those ports make it unreasonable or impracticable to apply to ships so plying the provisions of this Part relating to load-lines ;

(*ii*) any ship plying between near neighbouring ports of the same country if the [3][Central Government] is satisfied as aforesaid ;

(*iii*) wooden ships of primitive build if the [3][Central Government] considers that it would be unreasonable or impracticable to apply the said provisions to them ;

(*iv*) any class of steamships of less than 150 tons gross tonnage which are employed in plying coastwise between ports situated [1][within India [2][Pakistan], Burma and Ceylon] and do not carry cargo.

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[1] Subs. by the A. O. 1937 for " in India and Ceylon ".
[2] Ins. by the A. O. 1948.
[3] Subs. by the A. O. 1937 for " G. G. in C."
[4] Subs. by the A. O. 1937 for " he ".

Power of Central Government to make rules as to load-lines.

219. The [1][Central Government] may, subject to the condition of previous publication, make rules[2] (hereafter in this Act referred to as "the load-line rules") regulating the survey of ships for the purpose of assignment and marking of load-lines and prescribing the conditions (hereafter in this Act referred to as "the conditions of assignment") on which load-lines may be assigned.

Marking of deck line and load-lines.

220. (*1*) No British ship registered in India [3][~~the Provinces~~], being a ship of which the keel was laid after the 30th day of June, 1932, and not being exempt from the provisions of this Part relating to load-lines, shall proceed to sea unless—

(*i*) the ship has been surveyed in accordance with the load-line rules ;

(*ii*) the ship complies with the conditions of assignment ;

(*iii*) the ship is marked on each side with a mark (hereafter in this Act referred to as a "deck line") indicating the position of the uppermost complete deck as defined by the load-line rules, and with marks (hereafter in this Act referred to as "load-lines") indicating the several maximum depths to which the ship can be safely loaded in various circumstances prescribed by the load-line rules ;

(*iv*) the deck line and load-lines are of the description required by the load-line rules, the deck line is in the position required by those rules, and the load-lines are of the number required by such of those rules as are applicable to the ship ; and

(*v*) the load-lines are in the position required by such of the load-line rules as are applicable to the ship.

(*2*) No British ship registered in India [3][~~the Provinces~~], being a ship of which the keel was laid before the first day of July, 1932, and not being exempt from the provisions of this Part relating to load-lines, shall proceed to sea unless—

(*i*) the ship has been surveyed and marked in accordance with clauses (*i*), (*iii*) and (*iv*) of sub-section (*1*) ;

(*ii*) the ship complies with the conditions of assignment in principle and also in detail so far as, in the opinion of the [1][Central Government], is reasonable and practicable having regard to the efficiency of the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters provided by the arrangements, fittings and appliances existing on the ship at the time when she is first surveyed under this section ; and

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] For the Indian Merchant Shipping (Load-Line) Rules, 1934, *see* Gen. R. & O., Supplementary Vol. IV, p. 884.

[3] Subs. by the A. O. 1948 for "British India".

(*iii*) the load-lines are either in the position required by clause (*v*) of sub-section (*1*) or in the position required by the tables used by the Board of Trade on the 31st day of December, 1906, for fixing the position of load-lines, subject to such modifications of those tables and of the application thereof as were in force immediately before the 5th day of July, 1930.

(*3*) If any ship proceeds or attempts to proceed to sea in contravention of this section, the master or owner thereof shall for each offence be liable to a fine which may extend to one thousand rupees.

(*4*) Any ship attempting to proceed to sea without being surveyed and marked as required by this section may be detained until she has been so surveyed and marked, and any ship which does not comply with the conditions of assignment to the extent required in her case by this section shall be deemed to be unsafe for the purpose of section 232.

Submersion of load lines.

221. (*1*) A British ship registered in [1][~~the Provinces~~] India (not being exempt from the provisions of this Part relating to load-lines) shall not be so loaded as to submerge in salt water, when the ship has no list, the appropriate load-line on each side of the ship, that is to say, the load-line indicating or purporting to indicate the maximum depth to which the ship is for the time being entitled under the load-line rules to be loaded.

(*2*) If any such ship is loaded in contravention of this section, the owner or master of the ship shall for each offence be liable to a fine which may extend to one thousand rupees and to such additional fine, not exceeding the amount hereinafter specified, as the Court thinks fit to impose having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(*3*) The said additional fine shall not exceed one thousand rupees for every inch or fraction of an inch by which the appropriate load-line on each side of the ship was submerged, or would have been submerged if the ship had been in salt water and had had no list.

(*4*) In any proceedings against an owner or master for a contravention of this section, it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(*5*) Without prejudice to any proceedings under the foregoing provisions of this section, any ship which is loaded in contravention of this section may be detained until she ceases to be so loaded.

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[1] Subs. by the A. O. 1948 for "British India".

Offences in relation to marks.

222. If—

(*i*) the owner or master of a British ship registered in [1][the Provinces], which has been marked in accordance with the foregoing provisions of this Part, fails without reasonable cause to keep the ship so marked, or

(*ii*) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate any mark placed on any such ship in accordance with the foregoing provisions of this Part, except with the authority of a person entitled under the load-line rules to authorise the alteration of the mark or except for the purpose of escaping capture by an enemy,

he shall for each offence be liable to a fine which may extend to one thousand rupees.

Inspection of ships with respect to load-lines.

223. A surveyor authorised in this behalf by the [2][Central Government] may inspect any British ship registered in [1][~~the Provinces~~] India for the purpose of seeing that the provisions of this Part relating to load-lines have been complied with and for this purpose may go on board the ship at all reasonable times and do all things necessary for the proper inspection of the ship and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the ship.

Certificate.

Issue of load-line certificates and effect thereof.

224. (*1*) Where a British ship registered in [1][~~the Provinces~~] India has been surveyed and marked in accordance with the foregoing provisions of this Part and complies with the conditions of assignment to the extent required in her case by those provisions, there shall be issued to the owner of the ship on his application and on payment of the prescribed fee—

(*i*) in the case of a ship of 150 tons gross tonnage or upwards which carries cargo or passengers, a certificate to be called "an international load-line certificate"; and

(*ii*) in the case of any other ship, a certificate to be called "an [3][*British* India] load-line certificate".

(*2*) Every such certificate shall be issued either by the [2][Central Government] or by such other person as may be authorised in that behalf by the [2][Central Government] and shall be issued in such form and manner as may be prescribed by the load-line rules.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] The general adaptation directed in para 3(2) of the A. O. 1948 has not been carried out, as it is obviously in appropriate".

(*3*) The [1][Central Government] may request the Government of a country to which the International Convention respecting Load-Lines, 1930, applies, to issue a load-line certificate in the form of an international load-line certificate under that Convention in respect of a British ship registered in [2][~~the Provinces~~ India], and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Part as if it had been issued by the [1][Central Government].

(*4*) Where a load-line certificate, issued in pursuance of this section and for the time being in force, is produced in respect of a ship, the ship shall, for the purposes of the foregoing provisions of this Part, be deemed to have been surveyed as required by those provisions, and, if the deck line and load-lines on the ship are of the number and description required by the load-line rules and the position of the deck line and load-lines corresponds with the position specified in the certificate, the ship shall be deemed to be marked as required by those provisions.

Duration, renewal and cancellation of certificates.

224A. (*1*) Every load-line certificate issued by or under the authority of the [1][Central Government] shall, unless it is renewed in accordance with the provisions of sub-section (*2*), expire at the end of such period, not exceeding five years from the date of its issue, as may be specified therein.

(*2*) Any such load-line certificate may, after a survey not less effective than the survey required by the load-line rules before the issue of the certificate, be renewed from time to time by the [1][Central Government] or by any person authorised by the [1][Central Government] to issue a load-line certificate, for such period (not exceeding five years on any occasion) as the [1][Central Governement] or the person renewing the certificate thinks fit.

(*3*) The [1][Central Government] shall cancel any such load-line certificate in force in respect of a ship if [3][it] has reason to believe that—

(*i*) material alterations have taken place in the hull or superstructures of the ship which affect the position of the load-lines ; or

(*ii*) the fitttings and appliances for the protection of openings, the guard rails, the freeing ports or the means of access to the crew's quarters have not been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(*4*) The owner of every ship in respect of which any such certificate has been issued shall, so long as the certificate remains in force, cause the ship to be surveyed in the prescribed manner once at least in each year after the issue of the certificate for the purpose of seeing whether the certificate should, having regard to sub-section (*3*), remain in force, and if the ship is not so surveyed, the [1][Central Government] shall cancel the certificate:

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "he".

Provided that the [1][Central Government], if [2][it] thinks fit in any particular case, may extend the said period of one year.

(*5*) Where any such load-line certificate has expired or been cancelled the [1][Central Government] may require the owner or master of the ship to which the certificate relates to deliver up the certificate as [2][it] directs, and the ship may be detained until such requirement has been complied with, and if the owner or master fails without reasonable cause to comply with such requirement he shall for each offence be liable to a fine which may extend to one hundred rupees.

(*6*) On the survey of any ship in pursuance of this section there shall be paid by the owner of the ship such fee as may be prescribed.

Ships not to proceed to sea without certificate.

224B. (*1*) No British ship registered in [3][the Provinces] shall proceed to sea unless there is in force in respect of the ship a load-line certificate issued under the provisions of section 224.

(*2*) The master of every British ship registered in [3][the Provinces] shall produce to the officer of Customs, from whom a port-clearance for the ship is demanded, the certificate which is required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port-clearance shall not be granted, and the ship may be detained, until that certificate is so produced.

(*3*) The master of any ship which proceeds or attempts to proceed to sea in contravention of this section shall for each offence be liable to a fine which may extend to one thousand rupees.

Publication of load-line certificate and particulars relating to depth of loading.

224C. (*1*) When a load-line certificate has been issued in pursuance of the foregoing provisions of this Part in respect of a British ship registered in [3][~~the Provinces~~ India] other than a home-trade ship not exceeding 300 tons burden—

(*i*) the owner of the ship shall forthwith on the receipt of the certificate cause it to be framed and posted up in some conspicuous place on board the ship, and to be kept so framed and posted up and legible so long as the certificate remains in force and the ship is in use ; and

(*ii*) the master of the ship, before making any other entry in any official log-book, shall enter or cause to be entered therein the particulars as to the position of the deck line and load-lines specified in the certificate.

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] Subs. by the A. O. 1937 for " he ".

[3] Subs. by the A. O. 1948 for " British India ".

(*2*) Before any such ship leaves any dock, wharf, harbour or other place for the purpose of proceeding to sea, the master thereof shall—

(*i*) enter or cause to be entered in the official log-book such particulars relating to the depth to which the ship is for the time being loaded as the [1][Central Government] may by rules[2] made in this behalf prescribe ; and

(*ii*) cause a notice, in such form and containing such of the said particulars as may be required by the said rules, to be posted up in some conspicuous place on board the ship and to be kept so posted up and legible until the ship arrives at some other dock, wharf, harbour or place:

Provided that the [1][Central Government] may by the said rules exempt home-trade ships or any class of home-trade ships from the requirements of clause (*ii*) of this sub-section.

(*3*) If the master or owner of any British ship registered in [3][the Provinces] fails to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to two hundred rupees.

Insertion of particulars as to load-lines in agreements with crew.

224D. (*1*) Before an agreement with the crew of any British ship registered in [3][~~the Provinces~~ States], in respect of which a load-line certificate is in force, is signed by any member of the crew, the master of the ship shall insert in the agreement the particulars as to the position of the deck line and load-lines specified in the certificate, and if he fails to do so, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(*2*) In the case of a British ship registered in [3][the Provinces], being a foreign-going ship, the shipping master shall not proceed with the engagement of the crew until—

(*i*) there is produced to him a load-line certificate for the time being in force in respect of the ship ; and

(*ii*) he is satisfied that the particulars required by this section have been inserted in the agreement with the crew.

Special provisions as to ships not registered in [3][*the Provinces*].

Load-line certificates of ships not registered in the Provinces.

224E. (*1*) The [1][Central Government] may, at the request of a country to which the International Convention respecting Load-Lines, 1930, applies, issue an international load-line certificate in respect of a ship of that country if [4][it] is satisfied in like manner as in the case of a British

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] For the Indian Merchant Shipping (Depth of Loading) Rules, 1934 *see* Gen R. and O., Supplementary Vol. IV, p. 943.

[3] Subs. by the A. O. 1948 for " British India ".

[4] Subs. by the A. O. 1937 for " he ".

(Part V.—Safety.)

ship registered in [1][India ~~the Provinces~~] that [2][it] can properly issue the certificate, and where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

(*2*) With a view to determining the validity in [1][India ~~the Provinces~~] of certificates puporting to have been issued in accordance with the International Convention respecting Load-Lines, 1930, in respect of ships not registered in [1][India ~~the Provinces~~], the [3][Central Government] shall make such rules[4] as appear to [5][it] to be necessary, and for the purpose of the provisions hereafter contained in this Part relating to ships not registered in [1][~~the Provinces~~] India, the expression "a valid international load-line certificate" means a certificate complying with such of those rules as are applicable in the circumstances.

Inspection and control of ships not registered in the Provinces.

224F. (*1*) A surveyor authorised in this behalf by the [3][Central Government] may, at any reasonable time, go on board any ship not registered in [1][India ~~the Provinces~~] being a ship of 150 tons gross tonnage or upwards carrying cargo or passengers and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, when such ship is within any port in [1][India ~~the Provinces~~], for the purpose of demanding the production of any load-line certificate for the time being in force in respect of the ship.

(*2*) If a valid international load-line certificate is produced to the surveyor on any such demand, the surveyor's powers of inspecting the ship with respect to load-line shall be limited to seeing—

(*i*) that the ship is not loaded beyond the limits allowed by the certificate ;

(*ii*) that the position of the load-lines on the ship corresponds with the position specified in the certificate ;

(*iii*) that no material alterations have taken place in the hull or superstructures of the ship which affect the position of the load-lines ;

(*iv*) that the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(*3*) If it is found on any such inspection that the ship is loaded beyond the limits allowed by the certificate, the ship may be detained and the provisions of section 238 shall apply.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "he".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] For the Indian Merchant Shipping (Load-Line Convention Certificates Validity) Rules 1934, *see* Gen. R. and O., Supplementary Vol. IV, p. 948.

[5] Subs. by the A. O. 1937 for "him".

(*4*) If it is found on any such inspection that the load-lines on the ship are not in the position specified in the certificate, the ship may be detained until the matter has been rectified to the satisfaction of the surveyor.

(*5*) If it is found on any such inspection that the ship has been so materially altered in respect of the matters referred to in clauses (*iii*) and (*iv*) of sub-section (*2*) that the ship is manifestly unfit to proceed to sea without danger to human life, the ship shall be deemed to be unsafe for the purpose of section 232 (in the case of a British ship) or for the purpose of section 238 (in the case of a foreign ship):

Provided that where the ship has been detained under either of the last-mentioned sections, the [1][Central Government] shall order the ship to be released as soon as [2][it] is satisfied that the ship is fit to proceed to sea without danger to human life.

(*6*) If a valid international load-line certificate is not produced to the surveyor on such demand as aforesaid, the surveyor shall have the same power of inspecting the ship, for the purpose of seeing that the provisions of this Part relating to load-lines have been complied with, as if the ship were a British ship registered in [3][~~the Provinces~~]. India

(*7*) For the purposes of this section a ship shall be deemed to be loaded beyond the limits allowed by the certificate if she is so loaded as to submerge in salt water, when the ship has no list, the appropriate load-line on each side of the ship, that is to say, the load-line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the International Convention respecting Load-Lines, 1930, to be loaded.

Certificate of ship not registered in the Provinces to be produced to Customs.

224G. The master of every ship not registered in [3][~~the Provinces~~] India being a ship of 150 tons gross tonnage or upwards carrying cargo or passengers, and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, shall produce to the officer of Customs from whom a port-clearance for the ship from any port in [3][~~the Provinces~~] India is demanded—

(*i*) in a case where port-clearance is demanded in respect of a voyage to a port or place outside [3][~~the Provinces~~] India, a valid international load-line certificate;

(*ii*) in a case where port-clearance is demanded in respect of any other voyage, either a valid international load-line certificate or a valid [4][*British* India] load-line certificate;

and the port-clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "he".
[3] Subs. by the A. O. 1948 for "British India".
[4] *See* footnote 3 on p. 640, *supra*.

Marking of deck line and load-lines of ships not registered in the Provinces.

224H. The provisions of section 220 shall apply to ships not registered in [1][~~the Provinces~~] India proceeding or attempting to proceed to sea from ports in [1][the Provinces] as they apply to British ships registered in [1][~~the Provinces~~] India subject to the following modifications, namely:

(*i*) the said section shall not apply to a ship not registered in [1][the Provinces] if a valid international load-line certificate is produced in respect of the ship ; and

(*ii*) subject to the provisions of clause (*i*) of this section a foreign ship which does not comply with the conditions of assignment to the extent required in her case by the said section 220 shall be deemed to be unsafe for the purpose of section 238.

Submersion of load-line of ships not registered in the Provinces.

224I. The provisions of section 221 shall apply to ships not registered in [1][~~the Provinces~~] India, while they are within any port in [1][~~the Provinces~~] India as they apply to ships registered in [1][~~the Provinces~~] India subject to the following modifications, namely:

(*i*) no ship of 150 tons gross tonnage or upwards carrying cargo or passengers and belonging to a country to which the International Convention respecting Load-Lines, 1930, applies, shall be detained and no proceedings shall be taken against the owner or master thereof by virtue of the said section except after an inspection by a surveyor as provided by section 224F ; and

(*ii*) the expression "the appropriate load-line" in relation to any ship not registered in [1][~~the Provinces~~] India shall mean—

(*a*) in the case of a ship in respect of which there is produced on such an inspection as aforesaid a valid international load-line certificate, the load-line appearing by the certificate to indicate the maximum depth to which the ship is for the time being entitled under the International Convention respecting Load-Lines, 1930, to be loaded ;

(*b*) in any other case, the load-line which corresponds with the load-line indicating the maximum depth to which the ship is for the time being entitled under the load-line rules to be loaded, or, if no load-line on the ship corresponds as aforesaid, the lowest load-line thereon.

Inspection of ships not registered in the Provinces.

224J. The provisions of section 223 shall apply, in the same manner as they apply to British ships registered in [1][~~the Provinces~~] India, to all other ships while they are within any port in [1][~~the Provinces~~] India, except ships to which the provisions of section 224F apply.

Load-line certificates of ships not

224K. (*1*) The provisions of this Part relating to the issue, effect, duration, renewal and cancellation of [2][*British* India] load-line certificates shall apply to ships not registered in [1][~~the Provinces~~] India as they apply to British ships registered in [1][~~the Provinces~~] India subject to the following modifications, namely:—

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[1] Subs. by the A. O. 1948 for "British India",

[2] *See* footnote 3 on p. 640, *supra*.

registered in the Provinces.

(*i*) any such certificate may be issued in respect of any such ship as in respect of a ship registered in [1][~~the Provinces~~], provided that any such certificate issued in respect of a ship of 150 tons gross tonnage and upwards carrying cargo or passengers and belonging to a country to which the International Convention respecting Load-lines, 1930, applies, shall only be valid so long as the ship is not plying on voyages from or to any place in [1][~~the Provinces~~] India to or from any place outside India [1][~~the Provinces~~] and shall be endorsed with a statement to that effect and shall be cancelled by the [2][Central Government] if [3][it] has reason to believe that the ship is so plying; and

(*ii*) the survey required for the purpose of seeing whether the certificate should remain in force shall take place when required by the [2][Central Government].

(*2*) If the [2][Central Government] is satisfied—

(*i*) either—

(*a*) that by the law in force in any part of His Majesty's dominions outside [1][~~the Provinces~~] India provision has been made for the fixing, marking and certifying of load-lines on British ships (or any class or description of British ships) registered in that part of His Majesty's dominions, or

(*b*) that provision has been made as aforesaid by the law in force in any foreign country with respect to ships (or any class or description of ships) of that country and has also been so made (or has been agreed to be so made) for recognising [4][*British* India] load-line certificates as having the same effect in ports of that country as certificates issued under the said provision, and

(*ii*) that the said provision for the fixing, marking and certifying of load-lines is based on the same principles as the corresponding provisions of this Part relating to load-lines and is equally effective.

[3][it] may, by notification in the [5][Official Gazette], direct that load-line certificates issued in pursuance of the said provision in respect of British ships (or that class or description of British ships) registered in that part of His Majesty's dominions, or in respect of ships (or that class or descrip-

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "he".
[4] *See* footnote 3 on p. 640, *supra*.
[5] Subs. by the A. O. 1937 for "Gazette of India".

tion of ships) of that foreign country, as the case may be, shall have the same effect for the purpose of this Part as [1][*British* India] load-line certificates:

Provided that such direction shall not apply to ships of 150 tons gross tonnage and upwards carrying cargo or passengers and belonging to countries to which the International Convention respecting Load-Lines, 1930, applies, if such ships are engaged in plying on voyages from or to any place in [2][~~the Provinces~~] India to or from any place outside [2][~~the Provinces~~] India

Certificates to be produced to Customs by ships not registered in the Provinces.

224L. The master of every ship not registered in [2][~~the Provinces~~] other than ships to which the provisions of section 224G apply shall produce to the officer of Customs from whom a port-clearance for the ship from any port in [2][the Provinces] is demanded, either an [1][*British* India] load-line certificate or a certificate having effect under this Act as such a certificate, being a certificate for the time being in force in respect of the ship, and the port-clearance shall not be granted and the ship may be detained until the certificate required by this section is so produced.

Loading of Timber.

Power of Central Government to make rules as to timber cargo.

224M. (*1*) The [3][Central Government] shall, subject to the condition of previous publication, make rules[4] (hereafter in this section referred to as the "timber cargo rules") as to the conditions on which timber may be carried as cargo in any uncovered space on the deck of any ship.

(*2*) The timber cargo rules may prescribe a special load-line to be used only when the ship is carrying timber as cargo on deck and the conditions on which such special load-line may be assigned, and may further prescribe either generally or with reference to particular voyages and seasons the manner and position in which such timber is to be stowed and the provisions which are to be made for the safety of the crew.

(*3*) If any provision of the timber cargo rules is contravened in the case of any British ship registered in [2][~~the Provinces~~] India, the master of the ship shall be liable to a fine which may extend to five thousand rupees:

Provided that in any proceedings against a master in respect of a contravention of the timber cargo rules it shall be a good defence to prove that the contravention was due solely to deviation or delay, being deviation or delay caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

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[1] *See* footnote 3 on p. 640, *supra*.
[2] Subs. by the A. O. 1948 for "British India".
[3] Subs. by the A. O. 1937 for "G. G. in C.".
[3] For the Indian Merchant Shipping (Timber Cargo) Rules, 1934, *see* Gen. R. and O., Supplementary Vol. IV, p. 948.

(4) Any surveyor authorised in this behalf by the [1][Central Government] may, at any reasonable time, inspect any ship carrying timber as cargo in any uncovered space on her deck for the purpose of seeing whether the timber cargo rules have been complied with.

(5) The foregoing provisions of this section and the timber cargo rules shall apply to ships not registered in [2][~~the Provinces~~] India, while they are within any port in [2][~~the Provinces~~] India as they apply to British ships registered in [2][~~the Provinces.~~] India

Grain-Cargoes.

Stowage of cargo of grain, etc.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nutkernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

Penalty for improper stowage of such cargo.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

[3][*Subdivision Load-Lines.*

Submersion of subdivision load-lines in case of British passenger steamer registered in the Provinces.

227. (1) Where—

(a) a British passenger steamer registered in [2][~~the Provinces~~] India has been marked with subdivision load-lines, that is to say, load-lines indicating the depth to which the steamer may be loaded having regard to the extent to which she is subdivided and to the space for the time being allotted to passengers, and

(b) the appropriate subdivision load-line, that is to say, the subdivision load-line appropriate to the space for the time being allotted to passengers on the steamer, is lower than the load-line indicating the maximum depth to which the steamer is for the time being entitled under the provisions of this Part to be loaded, the steamer shall not be so loaded as to submerge the appropriate subdivision load-line on each side of the steamer when the steamer has no list.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Subs. by the A. O. 1948 for "British India".

[3] This heading and ss. 227 and 228 were subs. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 26, for the original heading and ss. 227 and 228.

(*2*) If any such steamer is loaded, in contravention of this section, the owner or master of the steamer shall for each offence be liable to a fine which may extend to one thousand rupees and to such additional fine, not exceeding the amount hereinafter specified, as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

(*3*) The said additional fine shall not exceed one thousand rupees for every inch or fraction of an inch by which the appropriate subdivision load-line on each side of the ship was submerged, or would have been submerged if the ship had had no list.

(*4*) Without prejudice to any proceedings under the foregoing provisions of this section, any such steamer which is loaded in contravention of this section may be detained until she ceases to be so loaded.

Application of section 227 to steamers not registered India in the Provinces.

228. The provisions of section 227 shall apply to passenger steamers not registered in [1][~~the Provinces~~] India while they are within any port in [1][~~the Provinces~~] as they apply to British passenger steamers registered in [the Provinces.]].

Unseaworthy Ships.

Every person sending unseaworthy ship to sea liable to penalty.

229. (*1*) Every person who sends or attempts to send a British ship to sea from any port in [1][~~the Provinces~~] India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(*2*) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(*3*) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

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[1] Subs. by the A. O. 1948 for "British India".

(*4*) No prosecution under this section shall be instituted except by, or with the consent of the [1][Central Government].

Unseaworthy ships.

230. A ship is "unseaworthy" within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the tackle, sails, rigging, stores, ballast, and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Obligation of owner to crew with respect to seaworthiness.

231. (*1*) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(*2*) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of unsafe ships by the [1][*Central Government*].

Power to detain unsafe ship and procedure for detention.

232. (*1*) Where a British ship in any port to which the [1][Central Government] may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

(*a*) The [1][Central Government], if [2][it] has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.

(*b*) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he", which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

(*c*) When the [1][Central Government] provisionally orders the detention of a ship, [2][it] shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon ; and, on receiving [3][the] report, may either order the ship to be released or, if in [4][its] opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the [1][Central Government] thinks necessary for the protection of human life.

(*d*) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

(*e*) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the [1][Central Government] shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the [1][Central Government] may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(*f*) Where a ship has been provisionally detained, the [1][Central Government] may at any time if [2][it] thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, for "it".

[3] Subs. by Act 6 of 1928, s. 6 and Sch., for "his".

[4] Subs. by the A. O. 1937 for "his" which had been subs. by Act 6 of 1928, for "its".

(*g*) The [1][Central Government] may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(*2*) Any person appointed by the [1][Central Government] for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the [1][Central Government] as under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(*3*) A detaining-officer shall forthwith report to the [1][Central Government] any order made by him for the detention or release of a ship.

(*4*) A ship detained under this section shall not be released by reason of her British or [2][Indian register] being subsequently closed.

(*5*) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely:—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of detention and damages incidental thereto.

Liability of Central Government

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for costs and damages when ship wrongly detained.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1948 for "British Indian register".

for the provisional detention of a ship, the [1][Central Government] shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of shipowner for costs when ship rightly detained.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, [2][or if a ship is detained in pursuance of any provision of this Part which provides for the detention of a ship until a certain event occurs], the owner of the ship shall be liable to pay to [1][the Central Government] its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

What included in costs of detention and survey.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the [3][Central Government] before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

Power to require from complainant security for costs, etc.

236. When a complaint is made to the [3][Central Government] or a detaining-officer that a British ship is unsafe, it shall be in the discretion of [4][the [5][Central Government] or the detaining-officer] (as the case may be) to require the complainant to give security to the satisfaction of [4][the [5][Central Government] or the detaining-officer] for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three of the seamen belonging to the ship, and is not in the opinion of [4][the [5][Central Government] or the detaining-officer] frivolous or vexatious, such security shall not be required; and [4][the [5][Central Government] or the detaining-officer] shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

Costs, etc., payable by Central Government recoverable from complainant.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the [1][Central Government] is liable under this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the [1][Central Government] all such costs and compensation as the [1][Central Government] incurs, or is liable to pay, in respect of the detention and survey of the ship.

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[1] Subs. by the A. O. 1937 for "Govt."

[2] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 27

[3] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[4] Subs. by Act 6 of 1928, s. 6 and Sch., for "such Government or officer".

[5] Subs. by the A. O. 1937 for "G. G. in C."

Application to foreign ships of provisions as to detention

238. When a foreign ship is in a port in [2][~~the Provinces~~ India] and is, whilst at that port, unsafe [3][by reason of the defective condition of her hull, equipments or machinery, or] by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely:—

(*i*) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained ;

(*ii*) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the [4][Central Government] to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the [4][Central Government] shall cause the ship to be detained or released accordingly ; but, if they differ, the [4][Central Government] may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbfore provided in the case of a British ship ; and

(*iii*) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the [4][Central Government].

Delegation of powers to Port Commissioners, etc.

239. (*1*) The [4][Central Government] may, from time to time, by notification in the [5][Official Gazette], delegate, either absolutely or subject to such conditions or restrictions as [6][it] thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of [1][the Central Government] under the foregoing sections of this Part, except the power of making rules.

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[1] Subs. by the A. O. 1937 for " Govt."

[2] Subs. by the A. O. 1948 for " British India ".

[3] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 28.

[4] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

[5] Subs. by the A. O. 1937 for " Gazette of India " which had been subs. by Act 6 of 1928, s. 5 and Sch., for " local official Gazette ".

[6] Subs. by the A. O. 1937 for " he " which had been subs. by Act 6 of 1928, s. 3 and Sch., for " it ".

(*2*) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

Commencement.

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in [2][~~the Provinces~~] India shall come into force on such date as the [3][Central Government] may, by notification[4] in the [5][Official Gazette], direct.

241. [*Definitions.*]—*Rep. by the Indian Merchant Shipping* (*Second Amendment*) *Act, 1933* (*XXV of 1933*), *s. 29.*

Wireless telegraphy requirements.

242. (*1*) Every sea-going British ship registered in [2][the Provinces], being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature, and shall be provided with such certificated operators and watchers as may be prescribed:

Provided that the [3][Central Government] may, by notification in the [5][Official Gazette], exempt from the obligations imposed by this section, any ships or classes of ships if [6][it] is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(*2*) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupess.

Wireless direction-finding apparatus.

[7][**242A.** (*1*) On and after such date as the [3][Central Government] may, by notification in the [5][Official Gazette], appoint in this behalf every British ship registered in [2][~~the Provinces~~] India being a passenger steamer of

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "a L. G."

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Ss. 242, 243, 244 and 245 were brought into force from 5th May, 1923, *vide* Notification No. 2743, dated 5th May, 1923, *see* Gen. R. & O., Vol. V, p. 446; Gazette of India, 1923, Pt. I, p. 402a.

[5] Subs. by the A. O. 1937 for "Gazette of India".

[6] Subs. by the A. O. 1937 for "he".

[7] Ss. 242A and 242B were ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 30.

5,000 tons gross tonnage or upwards, shall be provided with a wireless direction-finding apparatus of the prescribed description.

(*2*) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to two hundred rupees.

Wireless telegraph log.

242B. (*1*) Every ship compulsorily equipped under the provisions of section 242 with a wireless telegraph installation shall maintain in the wireless telegraph room a wireless telegraph log in which shall be entered such particulars relating to the opration of the wireless telegraph installation and as to the maintenance of the wireless telegraph service as may be prescribed.

(*2*) The provisions of section 122 shall apply to the wireless telegraph log kept under this section as if it were an official log-book.]

Appointment and powers of wireless telegraphy inspectors.

243. (*1*) The [1][Central Government] may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

(*2*) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship:

[2][Provided that if a valid Safety Convention Certificate is produced in respect of any ship not registered in [3][~~the Provinces~~ India], the inspection shall be limited to seeing that the ship is provided with a wireless telegraph installation and that the number of certified operators and watchers corresponds substantially with the particulars stated in the certificate.]

(*3*) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(*4*) Every notice given under sub-section (*3*) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is producd to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 31.

[3] Subs. by the A. O. 1948 for "British India".

Application to ships other than British ships registered in the Provinces.

244. The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in [1][~~the Provinces~~] India while they are within any port in [1][~~the Provinces~~] India in like manner as they apply to British ships registered in [1][~~the Provinces.~~] India

Power to make rules.

245. (*1*) The [2][Central Government] may make rules[3] to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the nature of the wireless telegraph installation [4][and wireless direction-finding apparatus] to be provided and of the service to be maintained, [4][the form of the wireless log and the particulars to be entered therein], and the number, grades and qualifications of certified operators and watchers to be carried:

[5]* * * * *

(*b*) the manner in which a notice given under sub-section (*3*) of section 243 shall be communicated to the Chief Officer of Customs:

[6][(*c*) the charging of fees for the grant of the certificate referred to in sub-section (*4*) of section 243, the amount of such fees and the manner in which they shall be recoverable.]

[7][*Signalling Lamps.*

Signalling lamps.

245A. (*1*) Every British ship registered in [1][~~the Provinces~~] India being a ship of over 150 tons gross tonnage shall, when proceeding to sea from any port or place in [1][~~the Provinces~~] India to any port or place outside [1][the Provinces], be provided with a signalling lamp of the type approved by the [2][Central Government].

(*2*) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master thereof shall for each offence be liable to a fine which may extend to two hundred rupees.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] For the Indian Merchant Shipping (Wireless Telegraphy) Rules, 1934, *see* Gen. R. & O., Supplementary Vol. IV, p. 952.

[4] Ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 32.

[5] The proviso was rep. by s. 32, *ibid.*

[6] Ins. by the Indian Merchant Shipping (Amendment) Act, 1925 (1 of 1925), s. 2.

[7] The headings and ss. 245A to 245M were ins. by Act 25 of 1933, s. 33.

Safety Certificates, Radio-telegraphy Certificates and Exemption Certificates.

Operation of provisions relating to Safety Certificates and Exemption Certificates.

245B. The provisions of this Part relating to Safety Certificates, Qualified Safety Certificates, Safety Radio-telegraphy Certificates and Exemption Certificates, that is to say, the provisions of section 245C to section 245M inclusive, shall have effect only from such date as the [1][Central Government] may, by notification in the [2][Official Gazette], appoint in this behalf.

Safety Certificates and Qualified Safety Certificates.

245C. (*1*) Upon receipt of a declaration of survey granted under Part III in respect of a steamship for which a certificate of survey is required by that Part, the [1][Central Government] shall, if satisfied that the steamship complies with all the provisions as to construction, machinery and equipments (including life-saving appliances, and wireless telegraphy installation) applicable to such steamship under this Act, cause a certificate, to be called a Safety Certificate or a Qualified Safety Certificate, as the case may be, to be prepared and delivered through such officer as the [1][Central Government] may appoint in this behalf to the owner or master of the steamship.

(*2*) The Safety Certificate shall be in the prescribed form and shall state that the steamship complies with the requirements of the International Convention for the Safety of Life at Sea, signed in London on the 31st day of May, 1929.

(*3*) The Qualified Safety Certificate shall be in the prescribed form and shall state in what respects the steamship complies with the requirements of the International Convention for the Safety of Life at Sea signed in London on the 31st day of May, 1929.

Safety Radio-telegraphy Certificate.

245D. (*1*) The owner or master of any British ship registered in [3]~~[the Provinces]~~ India which is not a passenger steamer but which is required by the provisions of section 242 to be provided with a wireless telegraphy installation and which is intended to ply on voyages from or to any place in [3]~~[the Provinces]~~ India to or from any place outside [3][~~the Provinces~~ India] shall, if the [1][Central Government] is satisfied that the ship complies with all the provisions as to wireless telegraphy applicable to such ship under this Part, receive a certificate to be called a Safety Radio-telegraphy Certificate, to be prepared and delivered through such officer as the [1][Central Government] may appoint in this behalf.

(*2*) The Safety Radio-telegraphy Certificate shall be in the prescribed form and shall state that the ship complies in respect of wireless telegraphy installation with the requirements of the International Convention for the Safety of Life at Sea, signed in London on the 31st day of May, 1929.

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "Gazette of India".
[3] Subs. by the A. O. 1948 for "British India".

Exemption Certificate.

245E. The owner or master of any British ship registered in [1][~~the Provinces~~] India, which is intended to ply on voyages from or to any place in [1][~~the Provinces~~] India to or from any place outside [1][~~the Provinces~~] India and in regard to which the [2][Central Government] has made a declaration under section 126 or an order of exemption under the proviso to sub-section (*1*) of section 242 shall on application to the officer appointed in this behalf by the [2][Central Government] receive from such officer a certificate in the prescribed form to be called an Exemption Certificate.

Duration of Certificates.

245F. (*1*) A Safety Certificate, Qualified Safety Certificate, Safety Radio-telegraphy Certificate or Exemption Certificate issued under the provisions of section 245C, 245D, or 245E, shall not remain in force for more than one year from the date of its issue, nor after notice is given by the authority issuing it to the owner or master of the ship in respect of which it has been issued, that that authority has cancelled the certificate.

(*2*) If the ship in respect of which any such certificate has been issued is absent from [1][~~the Provinces~~] India at the date when the certificate expires, the authority issuing the certificate, or any person authorised by that authority for the purpose, may, if it appears proper and reasonable so to do, grant such extension of the certificate as will allow the ship to return to [1][~~the Provinces~~] India, but no such extension shall have effect for more than five months from the said date.

(*3*) If the ship in respect of which a Safety Certificate issued under section 245C is in force has on board in the course of a particular voyage a total number of persons less than the number stated in the certificate to be the number for which the life-saving appliances on the ship provide, the owner or master of the ship may obtain from the authority issuing the certificate, or any person authorised by that authority for the purpose, a memorandum to be attached to the certificate stating the total number of persons carried on the ship on that voyage and the modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate.

Issue of Certificates to ships of foreign countries.

245G. (*1*) The [2][Central Government] may, at the request of the Government of a country to which the International Convention for the Safety of Life at Sea, 1929, applies, cause a Safety Certificate or Safety Radio-telegraphy Certificate to be issued in respect of a ship of that country if [3][it] is satisfied in like manner as in the case of a British ship registered in [1][~~the Provinces~~] India that such a certificate can properly be issued, and, where a certificate is issued at such a request, it shall contain a statement that it has been so issued.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "he".

(*2*) With a view to determining the validity in [1]~~[the Provinces]~~ India of certificates purporting to have been issued in accordance with the International Convention for the Safety of Life at Sea, 1929, in respect of ships not registered in [1]~~[the Provinces]~~ India, the [2][Central Government] shall make such rules as appear to [3][it] to be necessary, and for the purpose of the provisions of this Act the expression 'a valid Safety Convention Certificate' means a certificate or certificates complying with such of those rules as are applicable in the circumstances.

(*3*) Where a valid Safety Convention Certificate is produced in respect of a passenger steamer not registered in [1]~~[the Provinces]~~ India and there is attached to the certificate a memorandum which—

(*a*) has been issued by or under the authority of the Government of the country to which the steamer belongs, and

(*b*) modifies for the purpose of any particular voyage, in view of the number of persons actually carried on that voyage, the particulars stated in the certificates with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

Prohibition on proceeding to sea without certificates.

245H. (*1*) No British ship registered in [1][~~the Provinces~~] India being a passenger steamer shall proceed on a voyage from any place in [1]~~[the Provinces]~~ dia to any place outside [1][the Provinces] unless there is in force in respect of the ship either—

(*a*) a Safety Certificate issued under section 245C, or

(*b*) a Qualified Safety Certificate issued under section 245C and an Exemption Certificate issued under section 245E,

being a certificate or certificates which by the terms thereof is or are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(*2*) No sea-going British ship registered in [1]~~[the Provinces]~~ India being a ship of 1,600 tons gross tonnage or upwards other than a passenger steamer shall proceed on a voyage from any place in [1]~~[the Provinces]~~ India to any place outside [1]~~[the Provinces]~~ India unless there is in force in respect of the ship—

(*a*) such certificate or certificates as would be required in her case by the provisions of sub-section (*1*) if she were a passenger steamer, or

(*b*) a Safety Radio-telegraphy Certificate issued under section 245D, or

(*c*) an Exemption Certificate, issued under section 245E, relating to the wireless telegraphy equipment,

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."
[3] Subs. by the A. O. 1937 for "him".

(*Part V.—Safety.*)

being a certificate or certificates which by the terms thereof is or are applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged.

(*3*) If any ship to which this section applies proceeds or attempts to proceed, to sea in contravention of this section—

(*a*) in the case of a ship being a passenger steamer, the master or owner of the steamer shall, without prejudice to any other remedy or penalty under this Act, be liable for each offence to a fine which may extend to one hundred rupees for every passenger carried on board the steamship ; and

(*b*) in the case of a ship not being a passenger steamer, the master or owner of the ship shall for each offence be liable to a fine which may extend to one thousand rupees.

(*4*) The master of every ship to which this section applies shall produce to the officer of Customs from whom a port clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea, and the port clearance shall not be granted and the ship may be detained until the said certificate or certificates are so produced.

(*5*) Where an Exemption Certificate issued under section 245E in respect of any ship to which this section applies specifies any conditions on which the certificate is issued and those conditions are contravened, the master or owner of the ship shall for each offence be liable to a fine which may extend to one thousand rupees.

Recognition of certificates issued outside the Provinces.

245I. (*1*) Where there is produced in respect of any steamship not registered in [1][the Provinces] a valid Safety Convention Certificate, such certificate shall be accepted as having the same force as the corresponding certificate issued in respect of a ship registered in [1]~~[the Provinces]~~ India by the [2][Central Government].

(*2*) The master of every ship not registered in [1]~~[the Provinces]~~ being a passenger steamer or being a ship of 1,600 tons gross tonnage or upwards belonging to a country to which the International Convention for the Safety of Life at Sea, 1929, applies, shall produce a valid Safety Convention Certificate to the officer of Customs from whom a clearance for the ship is demanded in respect of a voyage from a place in [1]~~[the Provinces]~~ India to a place outside [1]~~[the Provinces]~~ India, and a clearance shall not be granted and the ship may be detained until such a certificate is so produced.

(*3*) Where a valid Safety Convention Certificate is produced in respect of a passenger steamer not registered in [1]~~[the Provinces]~~ India the steamer shall not be deemed to be unsafe for the purposes of section 238 of this Act by reason of the defective condition of her hull, equipments or machinery unless it appears that the steamer cannot proceed to sea without danger to the passengers or crew owing to the fact that the actual condition of the ship does not correspond substantially with the particulars stated in the certificate.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "G. G. in C."

Power of Central Government to make rules as to certificates.

245J. (*1*) The [1][Central Government] may, subject to the condition of previous publication, make rules[2] to carry out the purposes of the provisions of this Part relating to Safety Certificates, Qualified Safety Certificates, Safety Radio-telegraphy Certificates and Exemption Certificates.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe the form of the certificates referred to in sub-sections (*2*) and (*3*) of section 245C, sub-section (*2*) of section 245D, and section 245E, the charging of fees for the grant of such certificates, the amount of such fees, and the manner in which they shall be recoverable.

(*3*) The [1][Central Government] may delegate to any person the functions assigned to the [1][Central Government] by sections 245C, 245D and 245G of granting a Safety Certificate, a Qualified Safety Certificate or a Safety Radio-telegraphy Certificate in respect of any ships or classes of ships.

Application of sections 139, 139A, 140 and 142 of Act to certificates.

245K. The provisions of sections 139, 139A, 140 and 142 of this Act shall apply to and in relation to every certificate issued by the [1][Central Government] under sections 245C, 245D and 245E in the same manner as they apply to and in relation to a certificate of survey.

Issue by Foreign Government of certificate to ships registered in the Provinces.

245L. The [1][Central Government] may request the Government of a country to which the International Convention for the Safety of Life at Sea, 1929, applies, to issue a Safety Certificate or a Safety Radio-telegraphy Certificate in respect of a British ship registered in [3][~~the Provinces~~] and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the [1][Central Government].

India

Detention of foreign ships in cases not referred to in section 238.

245M. Where any foreign ship is detained under this Part in any case to which the provisions of section 238 do not apply, or where any proceedings are taken under this Part against the master or owner of any such ship, notice shall forthwith be served on the Consular Officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.]

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[1] Subs. by the A. O. 1937 for "G. G. in C."

[2] For the Indian Merchant Shipping (Safety Convention Certificates) Rules, 1934, *see* Gen. R. & O., Supplementary Vol. IV, p. 968.

[3] Subs. by the A. O. 1948 for "British India".

[1][PART VA.

NAVIGATION.

Method of giving helm orders.

245N. (*1*) No person on any British ship registered in [2]~~[the Provinces]~~ India shall when the ship is going ahead give a helm or steering order containing the word 'starboard' or 'right', or any equivalent of 'starboard' or 'right', unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word 'port' or 'left' or any equivalent of 'port' or 'left' unless he intends that the head of the ship shall move to the left.

(*2*) Any person who contravenes the provisions of this section shall for each offence be liable to a fine which may extend to five hundred rupees.

Duty to report dangers to navigation.

245O. (*1*) The master of any British ship registered in [2][the Provinces] on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation shall send information accordingly by all means of communication at his disposal and in accordance with such rules as the [3][Central Government] may make in this behalf to ships in the vicinity and to such authorities on shore as may be prescribed by these rules.

(*2*) If the master of a ship fails to comply with the provisions of this section, he shall be liable for each offence to a fine which may extend to five hundred rupees.

(*3*) For the purposes of this section the expression 'tropical storm' means a hurricane, typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in the vicinity.

Obligation to render assistance on receiving signal of distress.

245P. (*1*) The master of a British ship registered in [2][the Provinces] India on receiving a signal of distress by wireless telegraphy from any other ship shall proceed with all speed to the assistance of the persons in distress, unless he is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to do so, or unless he receives information that his assistance is no longer required.

(*2*) If the master is unable or in the special circumstances of the case considers it unreasonable or unnecessary to proceed to the assistance of the persons in distress, he shall forthwith send a message by wireless telegraphy informing the master of the ship in distress accordingly, and shall enter in the official log-book his reasons for not going to the assistance of those persons.

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[1] Part VA was ins. by the Indian Merchant Shipping (Second Amendment) Act, 1933 (25 of 1933), s. 34.

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by the A. O. 1937 for "G. G. in C."

(*3*) Any master failing to comply with the provisions of sub-section (*1*) shall be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(*4*) Any master failing to comply with the provisions of sub-section (*2*) shall be liable to a fine which may extend to one thousand rupees.

Power of Central Government to make rules as to signals.

245Q. (*1*) The [1][Central Government] may, subject to the condition of previous publication, make rules[2] prescribing—

(*a*) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated,

(*b*) the signals which shall be signals of distress and of urgency, respectively,

(*c*) the circumstances in which and the purposes for which any such signal is to be used, and the circumstances in which it is to be revoked, and

(*d*) the speed at which any message sent by wireless telegraphy in connection with such signal is to be transmitted.

(*2*) In making any rule under this section the [1][Central Government] may direct that the breach of it shall be punishable with fine which may extend to five hundred rupees.]

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Shipping casualties and report thereof.

246. (*1*) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

(*a*) on or near the coasts of [3][~~the Provinces~~] India, any ship is lost, abandoned, stranded or materially damaged ;

(*b*) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts ;

(*c*) on or near those coasts, any ship causes loss or material damage to any other ship ;

(*d*) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in [3]~~[the~~ India ~~Provinces~~;] or

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[1] Subs. by the A. O. 1937 for " G. G. in C."

[2] For the Indian Merchant Shipping (Distress Messages and Navigational Warnings) Rules, 1934, *see* Gen. R. & O., Supplementary Vol. IV, p. 790.

[3] Subs. by the A. O. 1948 for " British India ".

(*Part VI.—Special Shipping Inquiries and Courts.*)

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in [1]~~[the Provinces]~~ India as to the circumstances under which she proceeded to sea or was last heard of.

(*2*) In sub-section (*1*), the word "coasts" includes the coasts of creeks and tidal rivers.

(*3*) In the cases mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (*d*) of sub-section (*1*), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in [1]~~[the Provinces]~~ India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in [1]~~[the Provinces]~~ India, give immediate notice of the shipping casualty to the nearest Magistrate [2][and also to the officer appointed in this behalf by the [3][Central Government]].

(*4*) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Report of shipping casualties to Central and Provincial Governments.

247. (*1*) Whenever any [4][such officer] receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the [5][[3][Central Government], and also to the [6]~~[Provincial~~ State Government] on or near whose coasts the casualty occurred, or within whose territories any witness resides, or evidence can be obtained, as the case may be ; and may proceed to make a preliminary inquiry into the casualty].

(*2*) Any such [7]* * officer—

(*i*) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ;

(*ii*) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ;

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch., for "or, when he arrives at a port in British India, to any officer appointed by the L. G. in this behalf at that port".

[3] Subs. by the A. O. 1937 for "G. G. in C."

[4] Subs. by Act 6 of 1928, s. 6 and Sch., for "Magistrate or any officer appointed by the L. G. in this behalf".

[5] Subs. by s. 6 and Sch., *ibid.*, for "L. G."

[6] Subs. by the A. O. 1937 for "L. G."

[7] The words "Magistrate or" rep. by Act 6 of 1928, s. 6 and Sch.

(*iii*) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ;

(*iv*) may require and enforce the production of all books, papers or documents which he considers important for such purpose ; and

(*v*) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

[1][(*3*) An officer making a preliminary inquiry under this section shall send a report thereof to the [2][Central Government] and shall send a copy thereof to the [3][Provincial Government].]

Application to Court for a formal investigation.

[4][**248.** The officer appointed under sub-section (*3*) of section 246, whether he has made a preliminary inquiry or not, may, and where the [2][Central Government] so directs, shall, make an application to a Court empowered under section 249, requesting it to make a formal investigation into any shipping casualty ; and the Court shall thereupon make such investigation.

Court empowered to make formal investigation.

249. Magistrates of the first class specially empowered in this behalf by the [5][Central Government] and Presidency Magistrates shall have jurisdiction to make formal investigations into shipping casualties under this Part.]

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

250. (*1*) Any Court making a formal investigation into a shipping casualty, may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(*2*) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Central Government

251. (*1*) If the [5][Central Government] has reason to believe that there are grounds for charging any master, mate or engineer with incompetency to direct investigation into charges of incompetency or misconduct.

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "L. G."

[4] Subs. by Act 6 of 1928, s. 6 and Sch., for the original ss. 248 and 249.

[5] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "L. G."

or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the [1][Central Government]—

(*a*) if the master, mate or engineer holds a certificate under this Act, in any case,

(*b*) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases:—

(*i*) where the incompetency or misconduct has occurred on a British ship on or near the coasts of [2][the ~~Provinces~~ India], or on board a British ship in the course of a voyage to a port within the colony;

(*ii*) where the incompetency or misconduct has occurred on board a British ship registered in [2]~~[the Provinces]~~; India

(*iii*) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in [2][~~the Provinces~~] India

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(*2*) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the [1][Central Government].

Person accused to be heard.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

253. For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, [3][shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction].

Assessors.

254. [4][(*1*) A Court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:

Provided that, where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certicate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service.]

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "L. G."

[2] Subs. by the A. O. 1948 for "British India".

[3] Subs. by Act 6 of 1928, s. 6 and Sch., for the original words.

[4] Subs. by s. 6 and Sch., *ibid.*, for the original sub-section.

(*2*) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

[1][(*3*) The assessors shall be chosen from a list to be prepared from time to time by the [2][Central Government].]

Power to arrest witnesses and cause entry and detention of vessels.

255. (*1*) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the [3][Central Government]) to enter any vessel.

(*2*) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(*3*) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial and bind over witnesses.

256. Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in [4][the Provinces] an offence punishable under any law in force in [4][~~the Provinces~~ India], the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all [5][its powers as a Criminal Court].

Report by Court to Central Government and to Provincial Government.

257. (*1*) The Court shall, in the case of all investigations under this Part, transmit to the [3][Central Government] a full report of the conclusions at which it has arrived, together with the evidence, [6][and shall also send a copy thereof to the [7][Provincial Government]].

(*2*) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the [3][Central Government] and the transmission of the report to the [3][Central Government] shall be a sufficient compliance with this [8][sub-section].

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[1] Ins. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch.

[2] Subs. by the A. O. 1937 for "G. G. in C."

[3] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "L. G."

[4] Subs. by the A. O. 1948 for "British India".

[5] Subs. by Act 6 of 1928, s. 6 and Sch., for "the powers of a Magistrate of the first class or of a Presidency Magistrate".

[6] Ins. by s. 6 and Sch., *ibid.*

[7] Subs. by the A. O. 1937 for "L. G."

[8] Subs. by Act 6 of 1928, s. 6 and Sch., for "section".

(*Part VI.—Special Shipping Inquiries and Courts.*)

Suspension and cancellation of Certificates and grant of fresh Certificates.

Saving of power to cancel and suspend certificates and remove master under English Acts.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.

57 & 58 Vict., c. 60.

Power to issue local certificates in lieu of cancelled or suspended certificates.

259. (*1*) When any such Court cancels or suspends any such certificate, the [1][Central Government] may, if [2][it] thinks fit, [3][grant] without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(*3*) The [1][Central Government] may act under this section either in pursuance of a recommendation from the Court or of [4][its] own motion.

Power for Central Government to suspend or cancel certificates in certain cases.

260. (*1*) Any certificate which has been granted by the [5][Central Government] to any master, mate or engineer, may be suspended or cancelled, by the [6][Central Government], in the following cases, that is to say:—

(*a*) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default ;

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] Subs. by Act 6 of 1928, s. 6 and Sch., for "and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but".

[4] Subs. by the A. O. 1937 for "his" which had been subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I, for "its".

[5] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "any L. G."

[6] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 6 and Sch., for "that or any other L. G."

(*b*) if he is proved to have been convicted of any offence which, if committed in [1]~~[the Provinces]~~ India, would be non-bailable, or, if committed in England, would be a felony ; and

(*c*) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

58
., c. 60.

(*2*) Notwithstanding anything contained in this Act, the [2][Central Government] may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by [3][it] if, in [4][its] opinion, the holder is, or has become, unfit to act as an engine driver.

261. [*Report to other Local Governments.*] *Rep. by the Indian Merchant Shipping* (*Amendment*) *Act, 1928* (*VI of 1928*), *s. 6 and Sch.*

Report to Board of Trade.

262. [5][When the [6][Central Government] cancels or suspends] under section 260 the certificate of a master, mate or engineer [7][it] shall, as soon as may be practicable, report to the Board of Trade, the fact of such cancellation or suspension.

Power to revoke cancellation or suspension and grant new certificates.

263. (*1*) [8][The Central Government] may at any time revoke any order of cancellation or suspension which [9][it] may have made under section 260, or grant, without examination to any person whose certificate [9][it] has so cancelled, a new certificate of the same or of any lower grade.

(*2*) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

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[1] Subs. by the A. O. 1948 for "British India".

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "L. G."

[3] Subs. by the A. O. 1937 for "him" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "it".

[4] Subs. by the A. O. 1937 for "his" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "its".

[5] Subs. by Act 6 of 1928, s. 6 and Sch., for "Every L. G. cancelling or suspending".

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] Subs. by the A. O. 1937 for "he" which had been ins. by Act 6 of 1928, s. 6 and Sch.

[8] Subs. by the A. O. 1937 for "the G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "any L. G."

[9] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

(*Part VI.—Special Shipping Inquiries and Courts.*)

Power of Court of Investigation or Inquiry as to certificates granted by the Central Government.

264. (*1*) A certificate of a master, mate or engineer which has been granted by [1][the Central Government] under this Act may be cancelled or suspended—

(*a*) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer ;

(*b*) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(*2*) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

(*3*) Where the Court cancels or suspends a certificate, the Court shall forward it to the [2][Central Government], together with the report which it is required by this Part to transmit to [3][it].

(*4*) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(*5*) The duties imposed and powers conferred by sections [4]* 262 and 263 on the [2][Central Government] [5]* * * * shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the [6][[7][Central Government] as if [8][it] had [9][itself]] cancelled or suspended the certificate under section 260.

Power to remove master and appoint a new master.

265. (*1*) The principal Court of ordinary criminal jurisdiction at any, port in [10][~~the Provinces~~] India where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfication of the Court by evidence on oath to be necessary.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "a L. G."

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "L. G."

[3] Subs. by the A. O. 1937 for "him" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "that Govt."

[4] The figures "261" rep. by Act 6 of 1928, s. 6 and Sch.

[5] The words "which cancels or suspends a certificate" rep. by s. 6 and Sch., *ibid.*

[6] Subs. by s. 6 and Sch., *ibid.*, for "L. G. to which the Court has forwarded the certificate under sub-section (*3*), as if such L. G. had itself".

[7] Subs. by the A. O. 1937 for "G. G. in C."

[8] Subs. by the A. O. 1937 for "he".

[9] Subs. by the A. O. 1937 for "himself".

[10] Subs. by the A. O. 1948 for "British India".

(*2*) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(*3*) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(*4*) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

Delivery of certificate cancelled or suspended.

266. (*1*) A master, mate or engineer whose certificate is cancelled or suspended by any Court or by the [1][Central Government] shall deliver his certificate—

(*a*) if cancelled or suspended by a Court, to that Court ;

(*b*) if cancelled or suspended by the [2][Central Government], to [3][it], or to a shipping-master or other person appointed in this behalf by [3][it].

(*2*) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

Investigations into Explosions.

Power to investigate causes of explosions on board steamships.

267. (*1*) Whenever any explosion occurs on board any steam-ship on or near the coasts of [4][~~the Provinces~~ India] the [5][[6][Central Government] or a person duly appointed by [7][it] in this behalf] may, if [8][it] thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as [8][it] thinks fit.

(*2*) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the [5][[6][Central Government] or such authorised person] what, in his or their opinion, was the cause of the explosion.

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[1] Subs. by the A. O. 1937 for "G. G. in C.", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by Act 6 of 1928, s. 2 and Sch., for "a L. G."

[3] Subs. by the A. O. 1937 for "him" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "that L. G."

[4] Subs. by the A. O. 1948 for "British India".

[5] Subs. by Act 6 of 1928, s. 6 and Sch., for "L. G."

[6] Subs. by the A. O. 1937 for "G. G. in C."

[7] Subs. by the A. O. 1937 for "him".

[8] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s .3 and Sch., for "it".

(*Part VI.—Special Shipping Inquiries and Courts.*)

Courts of Survey.

Constitution of Court of Survey.

268. (*1*) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

(*2*) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the [1][Central Government] either generally or for any specified case.

(*3*) The assessors shall be persons of nautical engineering or other special skill or experience.

(*4*) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the [1][Central Government] either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the [1][Central Government] in the [2][Official Gazette], or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

Powers and procedure of Court of Survey.

269. (*1*) The Judge shall, on receiving notice of an appeal or a reference from the [1][Central Government], immediately summon the assessors to meet forthwith in the prescribed manner.

(*2*) The Court of Survey shall hear every case in open Court.

(*3*) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

(*4*) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(*5*) The Judge shall have the same power as the [1][Central Government] has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(*6*) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the [1][Central Government], may attend at any inspection or survey made in pursuance of this section.

(*7*) The Judge shall report the proceedings of the Court in each case to the [1][Central Government] in the manner prescribed, and each assessor shall either sign such report or report to the [1][Central Government] the reasons for his dissent.

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[1] Subs. by the A. O. 1937 for "G. G. in C.", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "Gazette of India" which had been subs. by Act 6 of 1928, s. 5 and Sch., for "local official Gazette".

Power of Central Government to make rules with respect to Court of Survey.

270. The [1][Central Government] may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

(*a*) the procedure before the Court;

(*b*) the requiring, on an appeal, of security for costs and damages;

(*c*) the amount and application of fees; and

(*d*) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees.

Reference in difficult cases to scientific persons.

271. (*1*) If the [1][Central Government] is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, [2][it] may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the [1][Central Government], as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between [3][a person duly appointed by the [4][Central Government] in this behalf] and the appellant, or, in default of any such agreement, by the [1][Central Government]; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(*2*) The [1][Central Government], if the appellant in any such appeal so requires and gives security to [5][its] satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(*3*) The referee or referees shall have the same powers as a Judge of the Court of Survey.

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[1] Subs. by the A. O. 1937 for "G. G. in C.", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "he" which had been subs. by Act 6 of 1928, s. 3 and Sch., for "it".

[3] Subs. by Act 6 of 1928, s. 6 and Sch., for "the Port-officer".

[4] Subs. by the A. O. 1937 for "G. G. in C."

[5] Subs. by the A. O. 1937 for "his" which had been subs. by Act 6 of 1928, s. 6 and Sch., for "its".

[1]PART VII.

WRECK AND SALVAGE.

" Wreck " defined.

272. In this Part " wreck " includes the following when found in the sea or any tidal water or on the shores thereof:—

(*a*) goods which have been cast into the sea and then sink and remain under water ;

(*b*) goods which have been cast or fall into the sea and remain floating on the surface ;

(*c*) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again ;

(*d*) goods which are thrown away or abandoned ; and

(*e*) a ship abandoned without hope or intention of recovery.

Appointment of receivers.

273. (*1*) The [2][Central Government] may, by notification in the [3][Official Gazette], appoint such person as [4][it] thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as [4][it] may prescribe.

(*2*) Persons so appointed shall be called receivers of wreck.

Rules to be observed by persons finding wreck.

274. (*1*) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(*a*) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished ;

(*b*) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(*2*) Any person omitting to give notice of the finding of, or to deliver any wreck to the receiver of wreck as required by sub-section (*1*) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

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[1] For application of the provisions of this Part to aircrafts, *see* the Indian Aircraft Act, 1934 (22 of 1934), s. 9.

[2] Subs. by the A. O. 1937 for " G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for " the L. G."

[3] Subs. by the A. O. 1937 for " Gazette of India " which had been subs. by Act 6 of 1928, s. 5 and Sch., for " local official Gazette ".

[4] Subs. by the A. O. 1937 for " he " which had been subs. by Act 6 of 1928, s. 3 and Sch., for " it ".

Government or person finding wreck entitled to salvage.

275. (*1*) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(*2*) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the [1][Central Government] may prescribe in this behalf, containing a description of the same and the time at which and the place, where the same was found.

Wreck may in certain cases be sold.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Proceeds how applied.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

Savings.

279. Nothing in this Part shall be deemed to—

(*a*) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

1908. (*b*) affect section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

PART VIII.

LEGAL PROCEEDINGS.

Certain persons to be deemed Public Servants.

280. The following persons shall be deemed to be public servants within the meaning of the Indian Penal Code, namely:— XLV of 1860.

(*a*) Every surveyor appointed under this Act.

(*b*) Every judge, assessor or other person acting under Part VI.

(*c*) Every person appointed under this Act to report information as to shipping casualties.

(*d*) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.

(*e*) Every person directed to make an investigation into an explosion on a steam-ship under section 267.

(*f*) Every Wireless Telegraphy Inspector appointed under this Act.

Jurisdiction of Magistrates.

281. No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial of the offender.

282. Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the [1][Central Government] may, by notification in the [2][Official Gazette], direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Depositions to be received in evidence when witnesses cannot be produced.

283. (*1*) Whenever, in the course of any legal proceeding under this Act instituted at [3][any place in a ~~Province of India~~ State] before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in [4][any other ~~Province or~~ Part of India or in any part of ~~His Majesty's Dominions~~ a commonwealth countries], or before any India or British consular officer, if elsewhere, shall be admissible in evidence—

(*a*) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made ;

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[1] Subs by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1937 for "local official Gazette".

[3] Subs. by the A. O. 1948 for "any place in British India".

[4] Subs. by the A. O. 1948 for "His Majesty's dominions (including all parts of British India other than those subject to the same Provincial Government as the place where the proceeding is instituted". The words "Provincial Government" had been subs. by the A. O. 1937 for "L. G."

(*b*) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness ;

(*c*) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Enforcing detention of ship.

284. (*1*) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the [1][~~Royal~~ Indian Navy], or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

(*2*) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(*3*) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(*4*) When any owner or master is convicted of an offence under sub-section (*3*), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Levy of wages, etc., by distress of moveable property.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Levy of wages, fines, etc., by distress of ship.

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

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[1] Subs. by the A. O. 1937 for "Royal Indian Marine Service".

Service of documents.

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

(*a*) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and

(*b*) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the persons being or appearing to be in command or charge of the ship; and

(*c*) if the document is to be served on the master of a ship where there is no master and the ship is in [1][the Provinces] on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in [1][the Provinces] or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Application of fines.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

PART IX.

SUPPLEMENTAL.

Powers to see Act is complied with.

289. (*1*) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

(*a*) enter on board any British ship, and

(*b*) muster and examine the crew.

(*2*) If any person obstructs any shipping-master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

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[1] Subs. by the A. O. 1948 for "British India".

Power to restrict transfer of ships.

[1][**289A.** (*1*) No person shall transfer or acquire any ship registered in any port of registry in India, or any share or interest therein, without the previous approval of the Central Government.

(*2*) If any person contravenes any of the provisions of sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(*3*) Any transaction effected in contravention of the provisions of sub-section (*1*) shall be void and unenforceable.

Power to restrict transfer of registry of ships.

8
c. 60.

289B. Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894, no application made, whether before or after the coming into operation of this section, for the transfer of the registry of a ship from a port of registry in India to a port of registry outside India shall be granted except with the previous approval of the Central Government, and the Central Government may, if it considers necessary or expedient so to do for the purpose of conserving the strength of Indian registered merchant shipping, refuse to give its approval to any such transfer.

Power to exempt ships from provisions of this Act and the Merchant Shipping Acts.

289C. Notwithstanding any thing contained in this Act or the Merchant Shipping Acts, the Central Government may, upon such conditions, if any, as it may think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Act or the Merchant Shipping Acts, or dispense with the observance of any such requirement, in the case of any ship if it is satisfied that that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case.]

Ship Surveyors.

Power to appoint examiners and to make rules as to qualifications of ship surveyors.

290. The [2][Central Government] may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in [3][~~[4][the Provinces]~~ India , and may], make rules—

(*a*) for the conduct of such examinations and the qualifications to be required,

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

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[1] Ss. 289A to 289C ins. by the Indian Merchant Shipping (Amendment) Act, 1947 (41 of 1947), s. 2.

[2] Subs. by the A. O. 1937 for "G. G. in C.", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] Subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch., for "the territories administered by such Govt., and, subject to the control of the G. G. in C."

[4] Subs. by the A. O. 1948 for "British India".

(Part IX.—Supplemental.)

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(*a*) for the conduct of such examinations and the qualifications to be required,

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

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[1] Ss. 289A to 289C ins. by the Indian Merchant Shipping (Amendment) Act, 1947 (41 of 1947). s. 2.

[2] Subs. by the A. O. 1937 for "G. G. in C.", which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[3] Subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 6 and Sch., for "the territories administered by such Govt., and, subject to the control of the G. G. in C."

[4] Subs. by the A. O. 1948 for "British India".

(*d*) for holding inquiries into charges of incompetency misconduct on the part of holders of such certificates, and

(*e*) for the suspension and cancellation of such certificates.

No person to practise as ship surveyor unless qualified.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290, exercise such profession in such port unless he holds a certificate granted under that section:

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the [1][Central Government] from the operation of this section.

Penalty for practising as ship surveyor without certificate.

292. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

Powers of person appointed or authorised to survey ship.

293. Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Provisions with respect to rules.

294. All rules made under this Act shall be published in the [2][Official Gazette] [3]* * * * and, on such publication, shall have effect as if enacted in this Act.

Power to appoint committees to advise on rules and scales.

[4][**294A.** (*1*) The [5][Central Government] may, if [6][it] thinks fit, appoint Committees for the purpose of advising [7][it] when considering the making or alteration of any rules or scales under this Act, consisting of such persons as [6][it] may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(*2*) There shall be paid to the members of any such Committee such travelling and other allowances as the [5][Central Government] may fix.

(*3*) Committees may be appointed under this section to advise the [5][Central Government] especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the [5][Central Government] may assign to them.]

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[1] Subs. by the A. O. 1937 for "G. G. in C." which had been subs. by the Indian Merchant Shipping (Amendment) Act, 1928 (6 of 1928), s. 2 and Sch., for "the L. G."

[2] Subs. by the A. O. 1937 for "Gazette of India".

[3] The words "or the local official Gazette, as the case may be," rep. by Act 6 of 1928 s. 6 and Sch.

[4] S. 294A was ins. by s. 8, *ibid.*

[5] Subs. by the A. O. 1937 for "G. G. in C."

[6] Subs. by the A. O. 1937 for "he".

[7] Subs. by the A. O. 1937 for "him".

295. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under Act.

296. [*Repeal.*] *Rep. by the Repealing Act, 1927* (*XII of 1927*).

SCHEDULE I.

(*See section 9.*)

TABLE A.

Fees to be charged for matters transacted at Shipping Offices.

1. Engagement or discharge of crews:—

	Rs.	A.	P.
In ships under 100 tons	3	0	0
,, from 100 to 200 tons	7	0	0
,, ,, 200 to 300 ,,	10	0	0
,, ,, 300 to 400 ,,	12	8	0
,, ,, 400 to 500 ,,	15	0	0
,, ,, 500 to 600 ,,	17	8	0
,, ,, 600 to 700 ,,	20	0	0
,, ,, 700 to 800 ,,	22	8	0
,, ,, 800 to 900 ,,	25	0	0
,, ,, 900 to 1,000 ,,	27	8	0
,, above 1,000 tons	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B.

Sums to be deducted from Wages by way of partial Repayment of Fees in Table A.

	Rs.	A.	P.
1. In respect of engagements and discharges of crews, upon each engagement and each discharge—			
From wages of any mate, purser, engineer, surgeon, carpenter or steward	0	12	0
From wages of all others except apprentices	0	8	0
2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge	0	8	0

SCHEDULE II.

(*See section 131.*)

Rates of Fees payable in respect of Survey of Steam-ships.

	Tons.	Rs.
For steam-ships of less than	200	40
,, ,, 200 tons and up to	350	50
,, ,, 350 ,, ,, ,, ...	700	60
,, ,, 700 ,, ,, ,, ...	1,000	80
,, ,, 1,000 ,, ,, ,, ...	1,500	100
,, ,, 1,500 ,, and upwards . .	...	120

SCHEDULE III.—[Applied sections of the Merchant Shipping Act, 1894. Form of Governor's or Consul's Certificate of Expenditure in the case of passengers shipwrecked, etc.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

SCHEDULE IV.

(*See section 279.*)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Conculs and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the shipwrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case

(*Schedule IV and Schedule V.*)

they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting those hereinafter named, that is to say, except to—

India.
The Dominion of Canada.
Newfoundland.
The Cape.
Natal
New South Wales.
Victoria.
Queensland.
Tasmania.
South Australia.
Western Australia.
New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugéne Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L. S.) LYTTON.
(L. S.) E. SPULLER.

SCHEDULE V.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1927 (XII of 1927).

THE MALKHARODA AND GAONTIA VILLAGES LAWS ACT, 1923.

ACT NO. XXII OF 1923.[1]

[2nd April, 1923.]

An Act to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces.

WHEREAS by Proclamation published under Notification No. 2833, dated the first day of September, 1905, the Governor General in Council was pleased to declare and appoint that, with effect from the sixteenth day of October, 1905, the district of Sambalpur (except the Chandarpur-Padampur Zamindari and the Phuljhar Zamindari) which then formed part of the Central Provinces, should cease to form part of those Provinces and should be included within the limits of the Bengal Division of the Presidency of Fort William ; and

WHEREAS by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of ~~His Majesty,~~ Govt. was pleased to constitute certain territories, including the said district of Sambalpur, a province under the name of the Province of Bihar and Orissa ; and

WHEREAS it has appeared that by the above-mentioned Proclamations certain territories were included within the Presidency of Fort William in Bengal and thereafter within the Province of Bihar and Orissa which territories have nevertheless continued to be administered in all respects as if they had continued to be included in the Central Provinces ; and

WHEREAS the Governor General in Council has, by Notification No. F-950 (Public), dated the eighth day of March, 1923, and made under section 60 of the Government of India Act with the approval of the Secretary of State for India in Council, been pleased to declare and appoint that the said territories shall again be included in the Central Provinces ; and

WHEREAS it is expedient to declare the law which shall be applicable to the said territories and to provide that nothing done by any authority, executive or judicial, in, for or in relation to the said territories since the sixteenth day of October, 1905, shall be brought in question on the ground that the said territories did not form part of the Central Provinces ; and to transfer the said territories from the jurisdiction of the High Court of

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[1] For the Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 123.

Judicature at Patna to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces ; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Malkharoda and Gaontia Villages Laws Act, 1923.

Declaration of law in force in the said territories.

2. Notwithstanding anything contained in the Bengal, Bihar and Orissa and Assam Laws Act, 1912, the territories specified in the Schedule (hereinafter referred to as the said territories) shall not be deemed to be included within the Province of Bihar and Orissa and nothing in that Act shall be deemed to be applicable to the said territories ; but all enactments ~~made by any authority in [1][the Provinces], and all~~ notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act were in force in the Central Provinces and would have been in force in the said territories if they had been part of the Bilaspur district of the Central Provinces shall be in force in the said territories.

VII of 1912.

Transference of said territories to the jurisdiction of the Court of Judicial Commissioner, Central Provinces.

3. On and from the commencement of this Act, the High Court of Judicature at Patna shall cease to exercise within the said territories the jurisdiction and powers which the said High Court exercises from time to time, within the limits of the places for which the said High Court was established ; and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917, to form part of the territories to which that Act extends.

C. P. Act I of 1917.

Indemnity.

4. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie against any officer of the [2][~~Crown~~ Govt] or against any person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done in or in relation to the said territories on the ground that the said territories were not, at the time at which such act, matter or thing was so ordered or done, included in the Central Provinces or that the law in force in the said territories was not at such time the law in force in the said Provinces, but was the law in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of the Province of Bihar and Orissa.

Validity of decrees, etc.

5. No Court or authority, whether civil, criminal or revenue, shall entertain any suit, claim, appeal or application whatsoever for the retrial of any suit or case tried by any Court in the Central Provinces, or shall reverse, annul, amend, declare invalid, or refuse to give effect to, anything done by any such Court or by any authority whatsoever established in the Central Provinces, or shall annul, amend, declare invalid, or refuse to give effect to, any notification, order, rule, bye-law, instrument or document whatsoever, merely on the ground that at the time at which such suit or case

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[1] Subs. by the A. O. 1948 for " British India ".
[2] Subs. by the A. O. 1937 for " Govt."

was tried, or such thing was done, or such notification, order, rule, bye-law, instrument or document was issued, made or executed, the said territories were not included in the Central Provinces or that the law in the said territories was not at such time the law for the time being in force in the Central Provinces, but was the law for the time being in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of the Province of Bihar and Orissa.

Saving as to territory subsequently transferred to Orissa.

[1][**6.** This Act shall have effect subject to any provisions contained in or made by virtue of the Government of India (Constitution of Orissa) Order, 1936.]

THE SCHEDULE.

(*See section 2.*)

Malkharoda Jagir.

Serial No.	Name of village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1.	Ameradih	1190	262	402·80
2.	Kurda	1278	261	1,376·39
3.	Kurdi	1279	261	323·65
4.	Kaimi	1249	263	1,041·14
5.	Charpara	1392	263	639·77
6.	Chhapora	1418	261	1,385·13
7.	Dongridhi	1479	261	335·87
8.	Nuagaon	1553	262	832·88
9.	Pirdha	1606	261	1,469·92
10.	Pihirid	1608	262	1,776·70
11.	Bardhata	1663	261	244·90
12.	Birbhata	1687	263	362·73
13.	Bhatora	1722	262	830·96
14.	Mohtara	1797	262	809·21
15.	Malkharoda	1770	263	1,445·48
16.	Mukta	1776	263	901·72
17.	Sipat (Bad)	1872	261	1,871·96
18.	Sipat (San)	1873	262	618·53
19.	Sarasdol	1866	262	581·78
20.	Senduras	1893	262	1,364·35
	Total	...	...	18,615·87

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[1] Ins. by the A. O. 1937.

Gaontia Villages.

Serial No.	Name of village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1.	Kuhakunda	1287	284	616·57
2.	Chharra	1419	278	665·85
3.	Jogni	1441	287	701·09
4.	Thakurpali	1466	287	149·48
5.	Panchpurgia	1570	287	38·27
6.	Panchpurgia	1571	282	24·10
7.	Brahmapura	1664	285	63·41
8.	Badimal	1675	284	1,233·92
9.	Mahadebpali	1761	280	205·58
	Total .	...	...	3,698·27

THE LEGAL PRACTITIONERS (WOMEN) ACT, 1923.

ACT NO. XXIII OF 1923.[1]

[*2nd April, 1923.*]

An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.

WHEREAS it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Legal Practitioners (Women) Act, 1923.

(2) It extends to [2][all the whole ~~Provinces~~ of India], ~~including [3]* * the Sonthal Parganas.~~ except Part B States

Definition.

2. In this Act "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879. XVIII of 1879.

Women not to be disqualified by reason only of sex.

3. Notwithstanding anything contained in any enactment in force in [4][~~the Provinces~~] Part A States & Part C States or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such; and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy, be void.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 160.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

[2] Subs. by the A. O. 1948 for "the whole of British India".

[3] The words "British Baluchistan and" rep. by the A. O. 1948.

[4] Subs. by the A. O. 1948 for "British India".

THE MAHENDRA PARTAB SINGH ESTATES ACT, 1923.

ACT NO. XXIV OF 1923.[1]

[19th July, 1923.]

An Act to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions.

WHEREAS Mahendra Partab Singh, formerly a resident of Hathras in the District of Aligarh in the United Provinces, son of the late Raja Ghansham Singh Bahadur and adopted son of the late Raja Har Narayan Singh, did treasonably ally himself with and assist ~~His Majesty's~~ Govt's enemies in the late war and is now a fugitive from justice ; and

WHEREAS the estates of the said Mahendra Partab Singh have been and are now attached under the provisions of the Bengal State Prisoners Regulation, 1818 ; and f 1818.

WHEREAS the said Mahendra Pratab Singh was, at the date of the attachment, possessed of certain moveable property and other such property has been acquired since the said attachment ; and

WHEREAS it is expedient for the purpose of the proper administration of the said estates and property and for preventing the use of the same or the income thereof in a manner prejudicial to the safety and good government of [2]~~[the Provinces]~~ India that all the right, title, interest, claim and demand of the said Mahendra Partab Singh in the said estates and property should be forfeited and thereafter be transferred to his son, Prem Partab Singh, subject nevertheless to certain conditions ; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mahendra Partab Singh Estates Act, 1923.

Forfeiture of the property of Mahendra Partab Singh.

2. With effect from the commencement of this Act, the whole of the estate, right, title, interest, claim and demand whatsoever of the said Mahendra Partab Singh in, to or upon the property specified in the Schedule and in, to or upon any other immoveable or moveable property of whatever description ~~in [2][the Provinces]~~ Part A States & Part C States, and in, to or upon all liberties, privileges, benefits, easements and appurtenances whatsoever belonging or in anywise appertaining thereto or usually held or enjoyed therewith (all which estate, right, title, interest, claim and demand is hereinafter referred to as the property) shall absolutely cease and be extinguished, and thereupon the property shall become vested in ~~His Majesty~~. Govt .

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[1] For the Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 157.

[2] Subs. by the A. O. 1948 for " British India ".

Grant of the property to son of late owner.

3. The [1][Central Government], as soon as may be after the commencement of this Act, shall grant the property to Prem Partab Singh, son of the said Mahendra Partab Singh, subject to such provisions, restrictions, conditions and limitations over as [2][it] may think fit.

THE SCHEDULE.

(*See section 2.*)

PART I.

IMMOVEABLE PROPERTY.

A.—Muttra District.

Serial No.	Description of property.	Area or extent.	Revenue and cess.			Tahsil.
			Rs.	A.	P.	
1	Ojhani	Whole . .	1,320	0	0	Chhata.
2	Jatwari	17½ Biswas .	2,037	0	0	,,
3	Hussaini . . .	Whole . .	2,456	0	0	,,
4	Karhari	,, . .	700	0	0	,,
5	Khursi	,, . .	495	0	0	,,
6	Rampur	,, . .	890	0	0	,,
7	Majhoi	,, . .	1,000	0	0	,,
8	Basai (Shergarh) . .	,, . .	534	0	0	,,

B.—Aligarh District.

Serial No.	Description of property.	Area or extent.			Revenues and cess.			Tahsil.
		Big.	Bis.	Bisi.	Rs.	A.	P.	
1	Qasba Koil Property—							
	(*a*) Patti Khalsa .	1,073	13	17	1,291	7	11	Koil.
	(*b*) Miscellaneous property.	1	4	2	0	5	10	,,
	(*c*) Patti Muafi Munzabta.	31	7	7	84	10	0	,,

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[1] Subs. by the A. O. 1937 for "G. G. in C."
[2] Subs. by the A. O. 1937 for "he".

THE SCHEDULE—*Contd.*

B.—Aligarh District—contd.

Serial No.	Description of property	Area or extent.	Revenue and cess.		Tahsil.
1—*contd.*	Qasba Koil property—*contd.*	Big. Bis. Bisi.		Rs. A. P.	
	(*d*) Patti for Dargah expenses.	0 8 0	Revenue free—	The cesses are— (*d*) 0 2 5	Koil.
	(*e*) Muafi Kam-az-dah bigha.	0 2 19 and 10 Kachwansis.		(*e*) 0 0 11	
	(*f*) Patti Muafi Dawam	4 15 0		(*f*) 1 6 5	
	(*g*) Block No. 16.	7 3 0	 Rent roll	(*g*) *Nil.* 24 0 0	,,
	(*h*) Chawni Dayaram Mazra Mauza Gambhirpura.	51 5 0		12 4 10	,,
2	Tochigarh Mohal Ghairkhwastgaran (Muafi).	83 4 0	Cess	12 0 0	Iglas
3	Patti Sanwant (Whole village).	384 17 0	Rent roll Revenue Cesses .	1,260 8 0 580 0 0 58 0 0	Hathras
4	Sokhana .	25 12 0	,, .	5 8 0	,,
5	Garhi Kandhari.	16 11 0	,, .	2 6 4	,,
6	Bala Patti Sheikh Jafar	9 9 0	,, .	4 5 2	,,
7	Garhi Garab.	4 3 0	,, .	0 5 5	,,
8	Garden in Qasba Hathras situated in different mahals as below:— (Muafi)				
	(*a*) Mahal 15 biswa.	124 13 0	,, .	15 14 5	,,
	(*b*) Mahal 5 biswa.	65 5 0	,, .	13 4 5	,,
	(*c*) Mahal 5 biswa (mortgagor rights).	10 19 16	,, .	32 2 4	,,

THE SCHEDULE—*contd.*

C.—Koil Municipality.

Serial No.	Municipal number (if any) and description of property.		Situation.	BOUNDARIES OF SHOPS.			
				North.	South.	East.	West.
1	Shop . . .	60	Under school . .	Shop of Kunwar Mahendra Pratab Singh,	Door and Road .	Shop of Municipal boundary.	Shop of Kunwar Sahib
2	Do. . . .	61	Ditto . . .	School building	Ditto . . .	Shop of Kunwar Sahib	Ditto.
3	Do. . . .	62	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
4	Do. . . .	63	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
5	Do. . . .	64	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
6	Do. . . .	...	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
7	Do. . . .	65	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
8	Do. . . .	66	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
9	Do. . . .	67	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
10	Do. . . .	68	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
11	Do. . . .	69	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
12	Do. . . .	70	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Shop of Bansi Dhar .
13	Do. . . .	41	Ditto . . .	Door and Road .	School building . .	Shop of Municipal boundary.	Shop of Kunwar Sahib
14	Do. . . .	40	Ditto . . .	Ditto . . .	Ditto . . .	Shop of Kunwar Sahib	Ditto.
15	Do. . . .	39	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
16	Do. . . .	38	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.

THE SCHEDULE—*contd.*

C.—Koil Municipality—contd.

Serial No.	Municipal number (if any) and description of property.	Situation.	Boundaries of shops.			
			North.	South.	East.	West.
17	Shop . . . 37	Under school	Door and Road	School building	Shop of Kunwar Sahib	Shop of Kunwar Sahib
18	Do. . . . 36	Ditto	Ditto	Ditto	Ditto	Ditto.
19	Do. . . . 35	Ditto	Ditto	Ditto	Ditto	Ditto.
20	Do. . . . 34	Ditto	Ditto	Ditto	Ditto	Ditto.
21	Do. . . . 33	Ditto	Ditto	Ditto	Ditto	Ditto.
22	Do. . . . 32	Ditto	Ditto	Ditto	Ditto	Ditto.
23	Do. . . . 73	Ditto	Ditto	Ditto	Ditto	Shop of Jugal Kishor.
24	Do. . . . 73	Bazar Pathar	Shop of Choba Mathura.	Door and Road	Ditto	Shop of Gobind Saran.
25	Do. . . . 72	Ditto	Shop of Kanhai Lal.	Ditto	Shop of Bansi Dhar	Shop of Kunwar Sahib
26	Do. . . . 81	Bazar Kaserath	Shop of Pasratha	Ditto	Shop of Jeth Mal	Shop of Prashadi Lal.
27	Do. . . . 87	Ditto	Ditto	Ditto	Shop of Bansi	Shop of Sita Ram.
28	Do. . . . 96	Ditto	Ditto	Ditto	Shop of Babu Nathi Lal.	Shop of Jagar Nath.
29	Do. . . . 84	Bazar Lohat	Shop of Nand Kishore	Shop of Basdeo	Shop of Basdeo	Door and Road.
30	Do. . . . 9	Mandi Rai	Shop of Nathi Mal	Shop of Mool Chand.	Door and Road	House.
31	Do. . . . 6	Ditto	Shop of Kunwar Sahib	Shop of Tara Chand.	Ditto	Do.
32	Do. . . . 5	Ditto	Ditto	Shop of Kunwar Sahib	Ditto	Do.

THE SCHEDULE—*contd.*

C.—Koil Municipality.—contd.

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West.
33	Shop 4	Mandi Rai	Shop of Kunwar Sahib	Shop of Kunwar Sahib	Door and Road	Shop of Maidawala.
34	Do. 3	Ditto	Shop of Lachman Das	Ditto	Ditto	Ditto.
35	Do. 15	Zer Kotwali	Kotwali	Door and Road	Shop	Shop.
36	Do. 105	Najhai	Door and Road	House of Kothiwala	Shop of Lala Ram	Shop of Kunwar Sahib
37	Do. 104	Ditto	Ditto	Ditto	Ditto	Ditto.
38	Do. 103	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Ditto.
39	Do. 102	Ditto	Ditto	Ditto	Ditto	Shop of Piare Lal.
40	Do. 95	Ditto	Ditto	House of Puran	Shop of Bhola Nath.	Shop of Kunwar Sahib
41	Do. 96	Ditto	Ditto	Shop of Kunwar Sahib	Ditto	Ditto.
42	Do. 95	Ditto	Ditto	Ditto	Ditto	Ditto.
43	Do. 94	Ditto	Ditto	Ditto	Ditto	Shop of Mandir Saraogi.
44	Do. 76	Ditto	Ditto	Ditto	Ditto	Shop of Ramchand.
45	Do. 77	Ditto	Ditto	Siak Nagran	Shop of Natha Ram.	Shop of Kunwar Sahib
46	Do. 23	Ditto	Ditto	Ditto	Shop of Jagarnath	Ditto.
47	Do. 22	Ditto	Shop of Halwaikhana.	Door and Road	Shop of Kunwar Sahib	Shop of Chiranji Lal.
48	Do. 20	Ditto	Ditto	Ditto	Shop of Gobind Ram.	Shop of Jagarnath.

THE SCHEDULE—*contd.*

C.—Koil Municipality—concld.

Serial No.	Municipal number (if any) and description of property.	Situation.	Boundaries of shops.			
			North.	South.	East.	West.
49	Shop . . . 12	Najhai . . .	Shop of Halwaikhana.	Door and Road.	Shop of Kunwar Sahib	Shop of Radha Manohar.
50	Do. . . . 11	Ditto . . .	Ditto . . .	Ditto . . .	Shop of Har Prasad .	Shop of Kunwar Sahib
51	Do. . . . 100	Halwaikhana . .	Shop of Kunwar Sahib	Ditto . . .	Door and Road .	Shop of Munna Lal.
52	Do. . . . 1	Ditto . . .	Shop of Piare Lal .	Shop of Thakur Sahib	Ditto . . .	Ditto.
53	Do. . . . 84	Ditto . . .	Door and Road .	Well	Shop of Natha Lal .	Street.
54	Do. . . . 82	Ditto . . .	Ditto . . .	Shop of Najhai .	Shop of Radha Ballabh.	Shop of Brahman.
55	Do. . . . 107	Sasni Darwaza . .	Shop of Kunwar Sahib	Shop of Ganeshi .	House of Thakura .	Door and Road.
56	Do. . . . 106	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
57	Do. . . . 105	Ditto . . .	Ditto . . .	Ditto . . .	House of Bijai Mal .	Ditto.
58	Do. . . . 104	Ditto . . .	Ditto . . .	Ditto . . .	House . . .	Ditto.
59	Do. . . . 43	Ditto . . .	Road Banderban .	Ditto . . .	Door and Road .	House of Budhsen.
60	Do. . . . 44	Ditto . . .	Shop of Kunwar Sahib	Street Balakhana .	Ditto . . .	Ditto.
61	Do. . . . 103	Ditto . . .	Ditto . . .	Street . . .	House of Natha .	Door and Road.
62	Do. . . . 20	Gurhai . . .	Ditto . . .	Shop of Ramswarup .	Door and Road .	House of Natha Ram.
63	Do. . . . 32	Ditto . . .	Shop of Jaiswal .	Shop of Nemi Mal .	Ditto . . .	Shop of Halwaikhana.
64	Do. . . . 30	Ditto . . .	Shop of Kunwar Sahib	Shop of Ramswarup .	Ditto . . .	House of Thathera.

THE SCHEDULE—*contd.*

C.—Koil Municipality—concld.

Serial No.	Municipal number (if any) and description of property.	Situation.	Boundaries of shops.			
			North.	South.	East.	West.
65	Shop 19	Gurhai	Door and Balakhana.	Shop of Kunwar Sahib	Door and Road	Shop of Halwaikhana.
66	Do. 69	Ditto	Shop of Kunwar Sahib	Shop	House of Phulchand	Door and Road.
67	Do. 68	Ditto	Shop of Madan Lal	Shop of Kunwar Sahib	Ditto	Ditto.
68	Do. 66	Ditto	Shop of Sunar	Shop of Gobindsaran.	Ditto	Ditto.
69	Do. 8	Pasratha	Door and Road	Shop of Kaserath Bazar.	Shop of Sannu Lal	Shop of Kunwar Sahib
70	Do. 4	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Shop of Ganeshi Lal.
71	Do. 12	Ditto	Ditto	Ditto	Shop of Buddha	Shop of Angan Lal.
72	Do. 51	Ditto	House of Darbari Lal	Door and Road	Shop of Kanhaiya Lal.	Shop of Kesodeo.
73	Do. 63	Chauk Daulat Ram	Door and Road	Temple of Ganeshi Lal	Street	Shop of Lala Panna Lal.
74	Do. 82	Bazar Chakki	Shop of Gillo Mal	Shop of Kunwar Sahib	Kothi Ram Lall	Door and Road.
75	Do. 83	Ditto	Shop of Kunwar Sahib	Shop of Tika Ram	Ditto	Ditto
75(a)	Do. Balakhana	Gurhai	Temple of Gangaji	Shop of Ramsarup	Door and Road	Shop of Tathera.
76	Do. 3	Zer Kotwali	Door and Road	House of Bhojraj	Shop of Ganga Prasad	Shop of Chhitar Mal.
76(a)	Do. Balakhana	Najhai	Street	Balakhana	Door and Road	House of Buddha.
77	Do. 40	Lohat	Shop of Kunwar Sahib	Shop of Moti Ram	Ditto	Shop of Debi Sahae.
78	Do. 39	Ditto	Shop of Jamna Sahae.	Ditto	Ditto	Shop of Rui-ki-Mandi.
79	Madrasa	Bazar Patthar	Bazar Pasratha	Bazar Patthar	Municipal Well	House of Dhanpat Rae

THE SCHEDULE—*contd.*

D.—Koil Tahsil.

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES			
			North.	South.	East.	West.
1	Sarai of Labruiyan of 60 houses.	Mohalla Ghuriabagh	Field of Haji Chand.	Field of Ganga Sahai.	Field of Haji Chand.	Public Road.
2	Sarai Intizam Ali of 13 houses.	Mohalla Madar Darwaza.	Flour Mill of Tika Ram.	House of Nannu Bhatiara.	Public Road	House of Khwaj Bakhsh Bhatiara
3	Do. 1 house	Ditto	House of Tika Ram.	Ditto	Ditto	Ditto
4	Do. 1 house	Ditto	Ditto	Ditto	Ditto	Ditto
5	Shop	Sarai Intizam Ali	Sarai Intizam Ali	Road	Shop of Babu Lal	Shop of B. Panna Lal.
6	Do.	Balae Kila	House of Weavers	Do.	Shop of Maula Dad Khan.	Shop of Jahangir.
7	Ahata (enclosure)	Madar Darwaza	Flour Mill of Tika Ram.	House of Nana Bhatiara.	House of Khwaj Baksh.	Road.
8	Proprietary rights of the land on which public latrines are situated in Mohalla Khirni Darwaza.					
9	Proprietary rights of the house of Babu Maluk Chand in Mohalla Sarai Rahman.					
10	Proprietary rights of the land on which the workshop of *ant* is situated in Banna Debi.					

THE SCHEDULE—*contd.*

E.—Dehra Dun.

Serial No.	Name of mauza.	Pargana.	Khasra No.	Area in acres.	Name of houses.	Municipal No.	House rent yearly accruing.	Amount paid on account of		Municipal tax.	Boundaries.
								Land Revenue.	Rent.		
1	2	3	4	5	6	7	8	9	10	11	12
							Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
1	Karanpur khas .	Western Dun	158 159 160 161	2·47 ·14 ·16 ·78	Dilkhusha .	44 Rajpur Road, Dehra Dun.	1,080	16 6 9	...	...	North . Kothi Inverness. South . House of Mr. T. Grey. East . Canal. West . Mauza Salawala.
			4	3·55							
2	Ditto . .	Ditto .	157	2·24	Inverness .	43 Rajpur Road, Dehra Dun.	600	16 6 9	...	...	North . Church and Kothi Daya. South . Kothi Dilkhusha. East . Canal. West . Mauza Salawala.
3	Ditto . .	Ditto .	147 148 149 150 151 152	·44 ·03 ·73 ·08 ·30 ·03	Daya or Parsonage.	42 Rajpur Road, Dehra Dun.	840	16 6 9	...	...	North . Kothi Dharma. South . Kothi Inverness. East . Church. West . Mauza Salawala.
			6	1·61							

THE SCHEDULE.—*contd.*

E.—Dehra Dun.—

4	Karanpur Khas	Western Dun	141 142 143 144 145 146 254 162	·03 ·12 ·11 1·04 ·39 ·02 ·46 1·78	Dharma or Church side.	41 Rajpur Road, Dehra Dun.	840	16 6 9	...	...	North . Footpath. South . Church. East . Canal. West . Mauza Salawala.
			8	3·95							
5	Dhak patti .	. Ditto .	885 884 887 892 893 898 894 897 895 896 899 900 901 902 903 904 905 906 907	·23 ·16 ·24 ·05 ·84 ·12 ·02 ·02 ·04 ·01 ·02 ·14 ·01 ·08 ·02 ·07 ·01 ·10 ·31	Ellenborough Hotel, Rajpur.	...	2,400	...	11 15 6	48 0 0	North . Chapman's hotel. South . Land belonging to Lala Mutsaddi Lal. East . Rizpana river. West . Rajpur Road. Occupancy rights of the first 19 plots Nos. 885—907 and non-occupancy of the last seven numbers.
			19	2·49							
			883 877 878 879 880 881 882	·41 2·16 ·02 ·75 ·01 ·24 ·03					12 4 6		
			7	3·62							

THE SCHEDULE—*contd.*

PART II.

MOVEABLE PROPERTY.

Serial No.	Nature of securities.	Face value.	Price paid.	Date of purchase.	In whose possession the securities, scripts, certificates, deeds, etc., are.
		Rs.	Rs. A. P.		
1	Post Office Cash Certificates payable on 27th September, 1923, *viz.*— Nos. A. D.-008471 to A.D.-008480 for Rs. 500 each . 5,000 Nos. A. B.-005789 to A.B.-005790 for Rs. 500 each . 1,000 $\frac{U}{U}$ 045222 to U 045225 of Rs. 100 each 400 N. 1725 . 50 6,450	6,450	4,998 12 0	27th September 1918.	Collector, Muttra.
2	6 per cent. United Provinces Bonds, Nos. C-004640 to C-004648 for Rs. 1,000 each B.-000910 to B.-000912 for Rs. 500 each A.-004378 to A.-004379 for Rs. 100 each, dated the 15th November, 1921.	10,700	9,951 0 0	18th October 1921.	Ditto.
3	5 per cent. War Loan, 1921—1947, No. 013192.	7,350	10,973	15th August 1917.	Collector, Aligarh.
4	Inscribed stock No. 742 of 5 per cent. War Loan, 1929—1947.	4,200		10th October 1917.	Public Debt Office.
5	Inscribed stock No. 1753 of 5 per cent. War Loan, 1929—1947.	1,500		10th April 1920.	Ditto.

THE SCHEDULE—*concld.*

PART II.

Moveable Property.

Serial No.	Nature of securities.	Face value.	Price paid.	Date of purchase.	In whose possession the securities, scripts, certificates, deeds, etc., are.
		Rs.	Rs. A. P.		
6	5½ per cent. War Bond, 1923.	2,000	...	11th November 1920.	Assistant Accountant-General, Posts and Telegraphs, Calcutta. Safe custody receipt No. PDD/284, dated 14th October 1920.
7	6 per cent. United Provinces Bonds for Rs. 1,000 each, Nos. C.-004358 and C-004359 dated .	2,000	1,860 0 0	15th November 1921.	Collector, Aligarh.
	Post Office Cash Certificates payable in 1924— Rs. No T.-037910 . 50 No. $\frac{Y}{Y}$ 017967 . 100 No. A. B.-047074. . 500 650	650	503 12 0	15th November 1919.	Ditto.
8	5½ per cent. War Loan, 1929—1947, No. 018050.	1,000	950 0 0	1917	Superintendent, Dehra Dun.
9	Post Office Cash Certificates payable on 12th September, 1923— 1 of Rs. 10—No. $\frac{E}{4}$ 09103. 1 of Rs. 20—No. K.—030543. 4 of Rs. 100 each —Nos $\frac{X}{X}$ -088192 to 088195. 3 of Rs. 500 each —Nos. A. D.—008368 to A.D.—008370.	1,930	1,496 0 0	12th September 1918.	Ditto.

THE MOORSHEDABAD (AMENDMENT) ACT, 1923.

ACT NO. XXV OF 1923.[1]

[25th July, 1923.]

An Act to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891.

WHEREAS it is expedient to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891 ; It is hereby enacted as follows:— XV of 1891.

Short title. 1. This Act may be called the Moorshedabad (Amendment) Act, 1923.

Modification of Indenture. 2. The provisions of the Indenture set out in the Schedule to the Moorshedabad Act, 1891, which provide that the Nawab Bahadur of Moorshedabad shall not, nor shall any of his successors, sell, mortgage, devise or alienate certain properties referred to in the said indenture respectively or any of them otherwise than by lease or demise for a term not exceeding twenty-one years and under a rent without bonus or salamee shall have effect as if for the words "for a term not exceeding twenty-one years and under a rent without bonus or salamee" the following words were substituted, namely:— XV of 1891.

> "the terms and conditions of which have been previously approved by the [2][~~Provincial~~ State Government of Bengal]":

Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act.

THE MUSSALMAN WAKF ACT, 1923.

ACT NO. XLII OF 1923.[2]

[5th August, 1923.]

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 235.

[2] Subs. by the A. O. 1937 for "Governor of Bengal in Council".

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1921, Pt. V, p. 182 ; and for Report of Select Committee, *see ibid.*, 1923, Pt. V, p. 139.

This Act has been rep. in its application to Bengal by the Bengal Wakf Act, 1934 (Ben. 13 of 1934), s. 82 ; and rep. in part in the United Provinces by the United Provinces Muslim Wakf Act, 1936 (U. P. 13 of 1936) ; and amended in its application to—

Bihar and Orissa by the Bihar and Orissa Mussalman Wakf (Amendment) Act, 1926 (B. & O., 1 of 1926) ; and

Bombay by the Mussalman Wakf (Bombay Amendment) Act, 1935 (Bom. 18 of 1935) ; the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944 (Bom. 10 of 1944) and the Mussalman Wakf (Bombay Amendment) Act, 1945 (Bom. 15 of 1945).

WHEREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties ; It is hereby enacted as follows :—

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Mussalman Wakf Act, 1923 ;

(*2*) It extends to [1][~~all~~ the whole ~~Provinces~~ of India], including [2]* * ~~the Sonthal Parganas~~; except Part B States

(*3*) This section shall come into force at once ; and

(*4*) The [3][~~Provincial~~ State Government] may, by notification in the [4][Official Gazette], direct[5] that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the ~~Province~~ State, or any specified part thereof, on such date as it may appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "benefit" does not include any benefit which a mutwalli is entitled to claim solely by reason of his being such mutwalli ;

(*b*) "Court" means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the [3][~~Provincial~~ State Government] may, by notification in the [4][Official Gazette], designate in this behalf ;

(*c*) "mutwalli" means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property ;

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[1] Subs. by the A. O. 1948 for "the whole of British India".

[2] The words "British Boluchistan and" rep. by the A. O. 1948.

[3] Subs. by the A. O. 1937 for "L. G."

[4] Subs by the A. O. 1937 for "local official Gazette".

[5] Ss. 2 to 5 and 7 to 13 were brought into force in the Punjab with effect from the 14th May, 1924, *see* Punjab Gazette, 1924, Pt. I, p. 418.

Ss. 2 to 13 were brought into force in the Presidency of Bombay from the 1st June, 1925, *see* Bombay Government Gazette, 1925, Pt. I, p. 1414.

All provisions of the Act were brought into force in Bihar and Orissa from the 3rd September, 1925, *see* B. & O. Gazette, 1925, Pt. II, p. 1192.

Ss. 2 to 13 were brought into force in the Presidency of Bengal with certain modifications from the 1st June, 1927, *see* Calcutta Gazette, Pt. I, p. 1008.

Ss. 2 to 13 were brought into force in Ajmer-Merwara from 1st February, 1928, *see* Gazette of India, 1928, Pt. II-A, p. 20

(*d*) "prescribed" means prescribed by rules made under this Act ; and

(*e*) "wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants. VI of 1913.

Statements of Particulars.

Obligation to furnish particulars relating to wakf.

3. (*1*) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is situated or to any one of two or more such Courts, a statement containing the following particulars, namely:—

(*a*) a description of the wakf property sufficient for the identification thereof ;

(*b*) the gross annual income from such property ;

(*c*) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter ;

(*d*) the amount of the Government revenue and cesses, and of all rents, annually payable in respect of the wakf property ;

(*e*) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (*c*) relate ;

(*f*) the amount set apart under the wakf for—

(*i*) the salary of the mutwalli and allowances to individuals ;
(*ii*) purely religious purposes ;
(*iii*) charitable purposes ;
(*iv*) any other purposes ; and

(*g*) and other particulars which may be prescribed.

(*2*) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the mutwalli, of the origin, nature and objects of the wakf.

(*3*) Where—

(*a*) a wakf is created after the commencement of this Act, or

(*b*) in the case of a wakf such as is described in section 3 of the Wakf Validating Act, 1913, the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder, f 1913.

the statement referred to in sub-section (*1*) shall be furnished, in the case referred to in clause (*a*), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (*b*) within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

Publication of particulars and requisition of further particulars.

4. (*1*) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and threafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(*2*) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement of Accounts and Audit.

Statement of accounts.

5. Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first day of March or, as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf:

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

Audit of accounts.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited—

(*a*) in the case of a wakf the gross income of which during the year in question, after deduction of the land-revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the [1][Central Government] under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout [2][the ~~Provinces] ; or~~ territories to which this Act applies; or

VII of 1913.

(*b*) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.[3]

General Provisions.

Mutwalli entitled to pay cost of audit, etc., from wakf funds.

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

Verification.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908, for the signing and verification of pleadings.

V of 1908.

Inspection and copies.

9. Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.[4]

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[1] Subs. by the A. O. 1937 for "L. G."

[2] Subs. by the A. O. 1948 for "British India".

[3] In the application of the Act to Bombay, new ss. 6A to 6Q have been ins. here by the Mussalman Wakf (Bombay Amendment) Act, 1935 (Bom. 18 of 1935), s. 5.

[4] In the application of the Act to Bombay, a new s. 9A has been ins. here by s. 11, *ibid.*

Penalty.

Penalties.

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall be upon him, fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accoounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with fine which may extend to two thousand rupees.[1]

Rules.

Power to make rules

11. (*1*) The [2][~~Provincial~~ State Government] may, after previous publication, by notification in the [3][Official Gazette], make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the additional particulars to be furnished by mutwallis under clause (*g*) of sub-section (*1*) of section 3 ;

(*b*) the fees to be charged upon applications made to a Court under sub-section (*1*) of section 4 ;

(*c*) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein ;

(*d*) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors ;

(*e*) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9 ;

(*f*) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act ; and

(*g*) any other matter which is to be or may be prescribed.

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[1] In the application of the Act to Bombay new ss. 10A to 10D have been ins here by the Mussalman Wakf (Bombay Amendment) Act, 1935 (Bom. 18 of 1935) s. 13.

[2] Subs. by the A. O. 1937 for " L. G. "

[3] Subs. by the A. O. 1937 for " local official Gazette ".

Savings. **12.** Nothing in this Act shall—

(*a*) affect any other enactment for the time being in force in the [1][the ~~Provinces~~] territories to which this Act applies providing for the control or supervision of religious or charitable endowments ; or

(*b*) apply in the case of any wakf the property of which—

(*i*) is being administered by the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee ; or

(*ii*) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

Exemption. **13.** The [2][~~Provincial~~ State Government] may, by notification in the [3][Official Gazette], exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community.

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[1] Subs. by the A. O. 1948 for "British India".
[2] Subs. by the A. O. 1937 for "L. G."
[3] Subs. by the A. O. 1937 for "local official Gazette".

INDEX

PAGE.

Aligarh Muslim University Act, 1920 . . . 140
Auxiliary Force Act, 1920 . . . 215

Basel Mission Trading Company Act, 1920 . . . 133
Boilers—*see* Indian Boilers Act, 1923.
Bronze Coin (Legal Tender) Act, 1918 . . . 55

Calcutta High Court (Jurisdictional Limits) Act, 1919 . . . 64
Cantonments (House-Accommodation) Act, 1923 . . . 463
Cash Certificates—*see* Post Office Cash Certificates Act, 1917.
Cattle-trespass (Amendment) Act, 1921 . . . 236
Charitable and Religious Trusts Act, 1920 . . . 117
Cinematograph Act, 1918 . . . 46
Civil Procedure (Amendment) Act, 1922 . . . 295
Coin—*see* Bronze Coin (Legal Tender) Act, 1918.
Companies—*see* Indian Companies (Foreign Interests) Act, 1918.
Compensation—*see* Workmen's Compensation Act, 1923.
Cotton Cess—*see* Indian Cotton Cess Act, 1923.
Cotton Cloth Act, 1918 . . . 55
Cotton Transport Act, 1923 . . . 419
Courts—*see* Punjab Courts (Supplementing) Act, 1919.

Delhi University Act, 1922 . . . 254
Deputy President's Salary—*see* Legislative Assembly (Deputy President's Salary) Act, 1921. . . .
Destruction of Records Act, 1917 . . . 29

Elections—*see* Indian Elections Offences and Inquiries Act, 1920.
Emigration—*see* Indian Emigration Act, 1922.
Enemy Missions Act, 1921 . . . 231
Estate—*see* King of Oudh's Estate Validation Act, 1917.
Estates—*see* Mahendra Partab Singh Estates Act, 1923.

High Court—*see* Calcutta High Court (Jurisdictional Limits) Act, 1919.
Hindu Transfers and Bequests (City of Madras) Act, 1921 . . . 230
House-Accommodation—*see* Cantonments (House-Accommodation Act, 1923.

Identification of Prisoners Act, 1920 . . . 128
Imperial Bank of India Act, 1920 . . . 170
Incitement to Disaffection—*see* Police (Incitement to Disaffection) Act, 1922.
Income-tax—*see* Indian Income-tax Act, 1922.
Indian Army (Suspension of Sentences) Act, 1920 . . . 126
Indian Boilers Act, 1923 . . . 450
Indian Companies (Foreign Interests) Act, 1918 . . . 53
Indian Cotton Cess Act, 1923 . . . 513
Indian Elections Offences and Inquiries Act, 1920 . . . 136
Indian Emigration Act, 1922 . . . 241
Indian Income-tax Act, 1922 . . . 296
Indian Merchant Shipping Act, 1923 . . . 533
Indian Mines Act, 1923 . . . 423
Indian Naval Armament Act, 1923 . . . 476
Indian Official Secrets Act, 1923 . . . 522
Indian Passport Act, 1920 . . . 131
Indian Red Cross Society Act, 1920 . . . 121
Indian Rifles Act, 1920 . . . 128
Indian Securities Act, 1920 . . . 106
Indian States (Protection against Disaffection) Act, 1922 . . . 418
Indian Territorial Force Act, 1920 . . . 207
Inland Steam-vessels Act, 1917 . . . 1
Insolvency—*see* Provincial Insolvency Act, 1920.

PAGE.
King of Oudh's Estate Validation Act, 1917 . . . 30

Legal Practitioners (Women) Act, 1923 . . . 690
Legal Tender—*see* Bronze Coin (Legal Tender) Act, 1918.
Legislative Assembly (Deputy President's Salary) Act, 1921 . . . 230
Loans—*see* Usurious Loans Act, 1918.
Local Authorities Pensions and Gratuities Act, 1919 . . . 59

Mahendra Partab Singh Estates Act, 1923 . . . 691
Maintenance Orders Enforcement Act, 1921 . . . 237
Malkharoda and Gaontia Villages Laws Act, 1923 . . . 687
Mental Hospital—*see* Ranchi Mental Hospital Act, 1922.
Merchant Shipping—*see* Indian Merchant Shipping Act, 1923.
Moorshedabad (Amendment) Act, 1923 . . . 704
Mussalman Wakf Act, 1923 . . . 704

Naval Armament—*see* Indian Naval Armament Act, 1923.

Official Secrets—*see* Indian Official Secrets Act, 1923.

Passport—*see* Indian Passport Act, 1920.
Patna University Act, 1917 . . . 38
Pensions—*see* Local Authorities Pensions and Gratuities Act, 1919.
Poisons Act, 1919 . . . 61
Police (Incitement to Disaffection) Act, 1922 . . . 416
Post Office Cash Certificates Act 1917 . . . 42
Prisoners—*see* Identification of Prisoners Act, 1920.
Property—*see* Transfer of Property (Validating) Act, 1917.
Protection against Disaffection—*see* Indian States (Protection against Disaffection) Act, 1922.
Provincial Insolvency Act, 1920 . . . 70
Punjab Courts (Supplementing) Act, 1919 . . . 60

Ranchi Mental Hospital Act, 1922 . . . 408
Records—*see* Destruction of Records Act, 1917.
Red Cross Society—*see* Indian Red Cross Society Act, 1920.
Rifles—*see* Indian Rifles Act, 1920.

Securities—*see* Indian Securities Act, 1920.
Sir Currimbhoy Ebrahim Baronetcy (Amendment) Act, 1917 . . . 44
Steam-vessels—*see* Inland Steam-vessels Act, 1917.
Suspension of Sentences—*see* Indian Army (Suspension of Sentences) Act, 1920.

Territorial Force—*see* Indian Territorial Force Act, 1920.
Town Improvement—*see* United Provinces Town Improvement (Appeals) Act, 1920.
Trading Company—*see* Basel Mission Trading Company Act, 1920.
Transfer of Property (Validating) Act, 1917 . . . 45
Transfers and Bequests—*see* Hindu Transfers and Bequests (City of Madras) Act, 1921.
Transport—*see* Cotton Transport Act, 1923.
Trusts—*see* Charitable and Religious Trusts Act, 1920.

United Provinces Town Improvement (Appeals) Act, 1920 . . . 69
University—*see* Patna University Act, 1917.
,, —*see* Aligarh Muslim University Act, 1920.
,, —*see* Delhi University Act, 1922.
Usurious Loans Act, 1918 . . . 50

Wakf—*see* Mussalman Wakf Act, 1923.
Workmen's Compensation Act, 1923 . . . 481